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THE HISTORY OF A  
FROM THE  
TO THE  
THE HOUSE OF  
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*John Adams.*

THE HISTORY OF ENGLAND  
FROM THE ACCESSION OF JAMES I  
TO THE ELEVATION OF  
THE HOUSE OF HANOVER.  
BY CATHARINE MACAULAY.  
EDIT. III. VOL. II.

LONDON PRINTED FOR  
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MDCCLXIX.



C O N T E N T S  
C H A P T E R I

THE HISTORY OF ENGLAND  
FROM THE ACCESSION OF JAMES

TO THE RESTORATION OF  
THE HOUSE OF STUART

ADAMS 230.3

72

BY ANTHONY MACAULAY

VOL II

C H A P T E R I I

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# C O N T E N T S.

## C H A R L E S I.

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ADVER-







# ADVERTISEMENT

TO THE

## FIRST EDITION.

THE Author would be wanting in that due respect which every individual owes the Public, if she did not acknowledge her grateful sentiments of the very favorable reception they have given her First Volume. The best return she can make to the friends of Liberty and the Constitution, is a diligent perseverance according to the plan laid down in the Introduction.

SHE flatters herself that the Second Volume will be received with the same candor as the First, knowing that it hath cost her much more pains and labor---well bestowed, if they at all contribute to the ends proposed in this difficult attempt.

THE



THE period of time in this Volume is short ; but the judicious will perceive the difficulty of drawing these important transactions into a narrower compass, without depriving the reader of necessary information, and defeating the great intention of the work.

*St. James's Place,  
Jan. 10, 1765.*



THE  
HISTORY  
OF  
ENGLAND.

CHARLES I.

CHAP. I.

*Attempt to relieve Rochelle.—Death of Buckingham.—Another attempt to relieve Rochelle.—Rochelle taken by the French king.—Peace concluded with France.—Merchants imprisoned.—Wentworth bought off from the popular party.—New session of parliament.—Protestation of the Commons.—Imprisonment of several members.—Dissolution.*

THE Petition of Right, though it did not Anno 1628.  
produce a change in the constitution, yet it confirmed to the subject every privilege which their ancestors had, for any length of time, enjoyed since the Norman Conquest had given the fatal blow to that enlarged system of Liberty introduced by the Saxons. Notwithstanding the importance of this event, no less threatening were the symptoms at the breaking up of this parliament, than had been those which attended the



Anno 1628. preceding ones : A precipitate conclusion, of the session ; anger and distrust on both sides ; a remonstrance composed of disgraceful truths, that set in a full light the infamous practices, and contemptible management of the government. Had Charles given his extorted assent to the Bill of Rights with a seeming alacrity, the Commons would have been inclined to have thrown the mantle of oblivion over past offences ; but his evasions and delays had not only excited a dangerous jealousy, but had taken away all pretence of merit from the forced compliance. This headstrong prince, notwithstanding he had received the greatest subsidy which was ever granted to any King of England ; notwithstanding the manifest indications the parliament had shewn, that they intended to give him a legal right to the revenue arising from tonnage and poundage ; concluded the session with indecent warmth, because the Commons had declared that he had no right to such impositions without consent of parliament. Had he squared his conduct by the rules of common policy, on the remonstrance presented to him on this subject, he would have offered to have prolonged the session till a bill of tonnage and poundage could have been perfected. This would have distressed the popular members, who, suspecting that he would soon violate the laws he had lately confirmed, when released from the shackles of a parliament, wanted to leave him in a situation which would render another meeting of this assembly necessary ; and had carefully avoided touching on this captious subject till the Petition of Right was clearly passed. This sagacious conduct in the Commons, no doubt, arose from the impolitic arguments which had been continually urged by the courtiers to bring them to comply with the  
the



the demands of the crown : They endeavored to intimidate, by representing that if ministerial measures were opposed, the King would assume every part of the legislature, and govern without parliaments. These suggestions might give warning, but could not strike terror. Such a government must ever be regarded as a tyranny, and consequently its duration be very precarious ; whereas if, with a preservation of the forms of the constitution, the Commons had tamely yielded to the King the power he had assumed, Liberty would have been irrecoverably lost, and absolute monarchy established by law.

The numberless instances in which Charles had violated the laws of the land, roused the attention of the nation to develop the real genius of the constitution ; and the accuracy with which the Commons at this period examined the legal rights of the monarchy, may be attributed to an impolitic exertion of power, which crowded into one point of view all the oppressive usurpations of the crown.

The first military exploit the ministry engaged in after the dissolution of the parliament, was an attempt to relieve Rochelle. At the pressing instances of the duke de Soubise, and deputies from this town, the earl of Denbigh, with a fleet which consisted of ten ships of the line, and sixty smaller vessels, was sent to succor the besieged with a recruit of men and victuals. A complication of treachery, ignorance, and cowardice, which appeared in the conduct of this expedition, rendered it abortive ; and Charles was either apparently betrayed by his servants and creatures, or himself an accomplice in a deceit which must needs prove the shipwreck of his conscience and his honor, and the dissipation of that treasure which he had

Attempt to  
relieve Ro-  
chelle.



Anno 1628.  
Du Cheyne.

dearly purchased from the last parliament. May the first, the English fleet anchored at Charleboy, in the road of Rochelle; on the eighth day, by the means of a high tide, and a strong favorable wind, a shallop which carried the news of their arrival, got safe into the harbor.

The inhabitants, thus advertised of the approach of their allies, erected signals on the top of their towers, and discharged their cannon, to shew that they were ready to attack the enemy, and favor, by a diversion, the entry of the destined succors. After an ineffectual attempt to pass a bar which the French had made to prevent the passage of the English ships, a council of war was called. The majority of the English captains gave it as their opinion, that the Rochellers had deceived them in their account of the facility of the enterprize. The vice-admiral and another officer, named Car, exclaimed against the backwardness of the rest; and the French hugonots in the fleet, whose whole forces consisted of two or three and twenty small vessels, offered, with the assistance of four merchant-ships well armed, and three fire-ships, with a proportionable number of soldiers, to sling succors into the place: With this offer the Rochellers agreed to pay for all the English ships which might miscarry in the attempt. Denbigh excused himself on the impracticability of it, and on the words of his commission, which were, not to fight unless previously attacked by the enemy. He obstinately refused to give any assistance towards the relief of the distressed town; and notwithstanding the tears and prayers of the deputies from Rochelle, he set sail and returned to England. On the deposition of Andrew Le Brun, a Frenchman, concerning Denbigh's remissness, a letter was sent by the council to the lord-

lord-high-admiral Buckingham, signifying, that it was the King's pleasure that the earl of Denbigh, with an addition to his fleet of other ships prepared at Portsmouth and Plymouth, should return back to relieve the town of Rochelle. This mandate was disobeyed. Denbigh remained at home; and Buckingham, who entertained the project of appearing once more in a military capacity, caused ten ships to be built, with other preparations towards the fitting out a naval armament which should be equal to the dignity of the commander. The earl of Marlborough, the present treasurer, was dismissed from his office, as a man whose frugal disposition might be a bar to the destined expence of the expedition; and Sir Richard Weston, the present chancellor of the Exchequer, a notorious Papist, and an approved creature of Buckingham, was promoted to the treasurer's staff, with the title of lord Weston\*. On the vast preparations made for this expedition, it is reported that all the subsidies given by parliament had been expended.

Anno 1628.

Guthrie, vol. III. p. 833.

Buckingham had repaired to Portsmouth, in order to survey the preparations for the intended embarkation, when, on the twenty-third of August, whilst he was talking with warmth to the duke de Soubise, and other French officers †, on his inclining his head to give directions to Sir Thomas Fryer, he received a deadly wound from an unseen hand, which struck a knife into his

Death of Buckingham.

\* He was afterwards created earl of Portland.

† Buckingham had been communicating some advices he had received, as if a convoy had got into Rochelle. This he communicated to the duke de Soubise, and the French gentlemen in his train, who insisted with great vehemence that this advice was false, and only intended to retard the expedition.



Anno 1628. heart. He withdrew the fatal instrument, fell prostrate on the ground, and expired instantaneously\*, to the surprize and horror of the by-standers, who looked with suspicious aspects on the French gentlemen, whose gesticulations had been very vehement in this conversation. The zeal of his attendants, who were running about with drawn swords, in quest of the assassin, might have been productive of mischief, if, in the midst of the confusion, a hat had not been found, in the inside of which was sewed a paper, containing part of that remonstrance of the Commons which declared the defunct an obstacle to the peace and safety of the kingdom, and the prime cause of all its grievances. This discovery preserved the foreigners from the danger of a massacre. It was immediately concluded, that the owner of the hat must be the murderer. In the midst of the anxiety which the apprehension of not overtaking the fugitive occasioned, a man stepped forth, and presenting himself to the company, said, "I am the person who committed the action; let not the innocent suffer." This assassin proved to be one John Felton, a man who was brave, honest, and conscientious; but melancholy, revengeful †, and enthusiastical. He had served in the station of a lieutenant under Buckingham, in his expedition to the Isle of Rhee, and had con-

Rushworth,  
vol. I. p. 635.

\* Clarendon, in his pompous History of the Civil Wars, very seriously tells a long story of the ghost of Sir George Villiers, the father of Buckingham, appearing several times, and presaging the death of his son. *Clarendon's History of the Civil Wars*, fol. Ox. 1702, vol. I. p. 34.

† Felton, having received an injury, cut off a piece of his little finger, and sent it with a challenge to the gentleman who had affronted him, with this message; That he valued not the exposing his whole body to destruction, so he might have an opportunity to be revenged. *Rushworth*, vol. I. p. 638.

ceived

ceived a personal aversion to him for his having promoted an officer over his head \*. The loud complaints of the nation, coinciding with his private resentment, inflamed the melancholy revengeful humors in his composition to a black phrenzy, and his enthusiasm prompted him to render himself, by an indirect means, an instrument of justice on the declared enemy of the public.

Thus, by the arm of a melancholy lunatic, fell this object of almost-universal hatred, George Villiers, duke of Buckingham: a man of memorable insufficiency as a statesman and a soldier, and who, with no other eminent qualities than what were proper to captivate the hearts of the weakest part of the female sex, had been raised by these qualities to be the scourge of three kingdoms; and, by his pestilent intrigues, the chief cause of that distress which the French Protestants at this time languished under: a man, whose extraordinary influence over two successive princes, will serve, among other examples of this kind, as an everlasting monument of the contemptible government which magnanimous nations must submit to, who groan under the mean, though oppressive yoke of an arbitrary sway, entrusted to the caprice of individuals.

The expensive parade of the courtiers in these times, and the glitter which surrounded the minions of royalty, can be by no single example so fully illustrated as by the account of Buckingham's body-ornaments: The jewels he left behind him were estimated at three hundred thousand pounds; a sum which, at the interest mone

\* Besides this injury, he had long waited in vain for arrears of pay. *Complete Hist. of England*, vol. III. p. 45.



Anno 1628. then bore, would have brought in an income of twenty thousand pounds a-year. Charles was performing a public act of devotion when the death of his favorite was made known to him: The composure which appeared in his countenance on the recital of this assassination, gave the by-standers a notion that he was not displeased with an incident which rid him of the man who effectually deprived him of the love and good opinion of his subjects. His after-deportment convinced the public, that he retained the same fond affection to his memory which he had shewn to his person. He not only continued to heap favors on his whole tribe of kindred, but on all those dependants who had attached themselves to his fortune; and paid a vast debt which he had contracted\*.

Felton was carried to London, where he underwent several examinations before the council. Laud, who had been lately promoted to the

\* Charles was within four miles of Portsmouth when the account of his favorite's death was made known to him. He was on his knees at prayers; no discomposure appeared in his actions, nor alteration in his countenance, till the service was over, when he retired to his chamber, and threw himself on his bed; where he gave vent to his sorrow in a flood of tears, and passionate expressions of regard to the memory of the deceased. *Clarend. Hist.* vol. I. p. 25.

It was reported that Charles, to shew his affection for his departed favorite, gave a command for a magnificent funeral. The treasurer diverted the project by telling him, that the testimony of his favor would be more lasting, if, instead of that transitory pomp, he was to erect a stately monument to his memory. Charles assented to this proposal; but when he renewed the subject of the monument, the treasurer evaded the King's intention by the following speech: "Sir, I am loath to tell your majesty what the world will say, both at home and abroad, if you should raise a monument for the duke before you erect one for your father." *The Reign of Charles*, by H. L. fol. ed. 1665, p. 91, & seq.

bishopric

bishopric of London, suggested a suspicion that the Puritans were at the bottom of the mischief, and threatened the delinquent with the rack \*. Felton told them, that if that was to be his case, he did not know whom he might name in the extremity of torture; and if what he should then say was to go for truth, he could not tell whether his lordship the bishop of London, or which of the lords at the council-board, he might accuse; for torture would draw unexpected things from him. By a resolution of the King and council, the judges were consulted on the question, whether Felton might legally be put to the torture? The judges determined in the negative; and the King graciously declared, that since it could not be done by law, he would not, in this point, use his prerogative. On Thursday, the twenty-seventh of November, Felton was brought to his trial. The unhappy enthusiast felt so exquisite a remorse for the crime he had committed, that on the court's passing sentence of death upon him, he offered that hand to be cut off which did the fact. Though the court disclaimed this request, as not within the compass of the law, and out of their power to grant, Charles sent to the judges to intimate his desire that Felton's hand might be cut off before execution of the sentence of death. The judges returned answer, that the King's will could not be complied with; for in all murders the judgment was the same, unless when the statute of 25 E. III. altered the nature of the offence.

On the death of Buckingham, the command of the fleet destined for the relief of Rochelle was

\* He had been frequently examined concerning this question, and constantly denied that he had any prompters to this action. *Rushworth*, vol. I. p. 638.

Anno 1628.

*Rushworth*, vol. I. p. 640. *Whitlock*, fol. ed. 1682, p. 11.

Another attempt to relieve Rochelle. *Rym. Fœd.* vol. XVIII. p. 1043.

given



Anno 1623. given to the earl of Lindsey. Notwithstanding the money which had been already expended, when the ships stores came to be inspected, they were found deficient both in quantity and quality; and the preparations were not ready till the eighth of September, when the French had finished a mole across the harbor, which rendered the relief of the town very difficult, if not impossible. When the fleet came before Rochelle, they made several vain attempts on the mole; two days were spent in cannonading the works, without damage on either side; and the duke de Soubise began to suspect that the English commander, who had sent several private messages into the French camp, was treating separately with the enemy. On receiving intelligence that the town could not hold out above two days, he offered, with the French ships, to attempt the mole, if the English would promise to follow him. The count of Laval proposed, with artificial mines, contrived in three ships lined with bricks, to attempt to blow it up. Both these proposals were rejected in a council of war, and more time consumed in fruitless cannonading. The English captains in the fleet, who had been all of Buckingham's nomination, and who had hitherto refused to assent to any effectual method of combating the obstacles which prevented the flinging in relief to the town, at length determined, in a council of war, to make one decisive attack. Before this could be put in execution, Rochelle was forced to capitulate \*. It exhibited a scene of

Rochelle  
taken by  
the French  
king.

\* Guion, the mayor of this town, who had made so obstinate a defence, going in his formalities to receive the conquerors, was told by Richlieu, that he must dismiss his halberdiers, for the king would be sole master and mayor of Rochelle. He answered, with a spirit truly noble, "If I had known you would not have kept your word with me, the  
burghers

misery which even pride, bigotry, and the lust of power, could not behold without emotions of compassion: The vain-glorious Richlieu, in the midst of his exultations for the success of his projects to forge everlasting chains for his countrymen, with his pupil-monarch, bred in the school of despotism, and trained in those principles of tyranny which render conscience an accomplice to acts of cruelty and injustice, on viewing this horrid theatre of human sufferings expressed some marks of sorrow and regret. Of twenty-two thousand persons who had been shut up in the town, four thousand alone survived the hardships which they had undergone. The living not being in number sufficient, or in a condition to bury the dead, vermin and birds of prey fed on the exposed carcases. The dying carried their own coffins into the church-yards, and there lay down and breathed their last. Rats, dogs, cats, mice, human flesh, and other distasteful food, had been the only provision on which these martyrs to the cause of Religion and Liberty had for some time fed. The few inhabitants who survived these miseries appeared like the skeletons of men. The story of their sufferings shews the mighty influence which virtue has over a people actuated by a just sense of Freedom; that it not only over-ballances every motive of self-preservation, subdues those frailties which are inseparable from humanity, but raises the mind above the sense of evils which are the most insupportable to the nature of man. Rochelle thus reduced in the face of the English, their fleet sailed home; and the French monarch, with his minister Richlieu,

Anno 1628.  
Rushworth,  
vol. I. p.  
636.

Sanderfon,  
p. 127.  
Hist. of King  
Charles, by  
H. L. p. 93.

Larrey, 8vo  
ed. 1716,  
vol. I. p.  
206.

burghers should have defended themselves to the last man, and I would then have buried myself under the ruins of the town." Larrey, vol. I. p. 207.

entered



**Anno 1628.** entered the conquered town, where they re-established the exercise of the Roman-Catholic religion, destroyed the fortifications, and deprived the inhabitants of all the privileges they had enjoyed from the edict of Nantes in the year 1598 \*. Lewis, who had obtained a complete victory over a handful of brave men, shut up within the walls of a town, besieged by land and by sea with the whole force of the French nation, returned to Paris, in which place he triumphed with as much ostentation as if he had defended his country from a formidable invasion.

The reduction of Rochelle, the strongest town which the French Protestants possessed, and the only remaining bulwark of Gallic liberty, was an irrecoverable blow to the reformed, and a necessary step towards the established despotism of the French monarchy. The bigotry of its subjects, notwithstanding that the consequences of this catastrophe were obvious, assisted their sovereign in this fatal conquest with an admired alacrity; one sensible Frenchman, the mareschal de Bassompierre, alone excepted, who said, "I think we shall be at last such fools as to take Rochelle."

Echard,  
fol. ed. 1720,  
p. 440.

**Rushworth.** On the return of the fleet to England, the earl of Lindsey made sundry complaints on the behavior of his officers, of the badness of the provisions, tackle, and other necessaries for the expedition. An enquiry was ordered on the report of these particulars: After some of the officers had been confined a short time, and com-

\* The original edict was vested in the hands of the Rochellers, who preserved it in their town, till its destruction, as a sacred deposit. In this fortress the reformed held their synods, and all those general assemblies in which they consulted on their common interest. *Moreri*, vol. VII. p. 154, & seq.

missions issued to try others, the affair was entirely dropped. Many historians have charged Charles with the guilt of being an accessory to the destruction of the town of Rochelle. If we acquit him of this black treachery, it must be at the expence of his understanding. It appears plainly, that, if his intentions were honest, he was grossly abused by the people he trusted. Whether the remissness of their conduct was occasioned by the intrigues of the queen his wife, who had now gained a mighty influence over him; whether it proceeded from Buckingham, whom report avers to have sacrificed Rochelle to the cajolements of the court of France, and to the romantic project of an amorous connection with the French queen\*, must be left to conjecture; since record does not afford sufficient authorities to warrant an historian's giving either of the two reasons for matter of fact. Whether it proceeded alone from a palpable cause, that the men trusted with the execution of public affairs were incapable of performing any enterprise of importance, certain it is, that the Rochellers had endured all their extreme miseries through the promises of Charles, and had been prevailed on to commence hostilities, not only

\* An author, very partial to the Stewart family, relates, that in the unfortunate expedition to the Isle of Rhee, Toras, the commander of the French garrison, being much pressed with famine, sent a message of surrender to Buckingham. Buckingham returned answer, that he doubted not but they were too courageous, and of greater fidelity to their king, than to render their castle; but since they were obliged to yield to necessity, they should have honorable terms. On this, another message was sent to Buckingham, to name his conditions. He deferred doing it, and the French found means to sling succors into the castle. *Sanderfon's Reign of K. Charles*, p. 91.



Anno 1628. by the circumstances of their affairs, but by the united force of the most earnest persuasions, and the most flattering assurances of protection from the king of England.

Rushworth,  
vol. i. p. 636.

Peace con-  
cluded with  
France.

Du Cheyne,  
p. 1219, &  
seq.

Id. p. 1211.

The persecution of the reformed churches was so violent, after the reduction of this fortress, that they were again obliged to implore aid of Charles; this they did in these terms; "That what they wrote was with their tears and their blood." This emphatical expression had no effect: a treaty of peace was now on foot between the two crowns; it was concluded in the beginning of the following year, without any stipulations for the interest or the preservation of the French Protestants, though the eleventh article of the treaty between Charles and the Rochellers is expressly as follows: "And in case it shall so happen that his majesty shall hereafter lend an ear to proposals of peace with the Most Christian king, the said people of Rochelle shall be called to the conferences, and no treaty shall be concluded without express stipulations that their privileges and immunities shall be preserved to them, according to the instructions they are to furnish on that head. His majesty farther obliges himself to guarantee the said treaty to them." This treaty of peace between the two crowns of France and England, in which Charles so basely deserted the Rochellers, contrary to the articles of alliance, was in agitation before the death of Buckingham; and it was with a view to this treaty that he was appointed to serve in the last expedition\*. The Venetian minister managed the negociation, and brought it to such a

\* On the subject of this treaty, the first minister of both kings were to have an interview at the head of the fleets and armies of the respective nations. *Historical Preface to Sir Dudley Carleton's Letters*, p. 31.

forwardness in two conferences, one with the King and the other with the duke, that the latter agreed to conclude the whole before he sailed; and the lord Dorchester was sent to him from the court the very morning on which he was assassinated, when going to take horse to finish the business in his master's closet. This secret negociation, transacted without the knowledge of the Rochellers, at a time when they expected, from the faith of promises, written with Charles's own hand \*, a vigorous assistance, is a very suspicious circumstance, and renders it probable that his intentions were not honest with regard to this suffering deluded people, and that they were to be the necessary sacrifice to the intended peace. The French afterwards insisted on the restitution of Canada, and Acadia, taken from them in this year

\* The following are two letters from Charles to the Rochellers, on the return of that fleet which was sent to their succour under the command of the earl of Denbigh.

“ Gentlemen,

“ I have been troubled to hear that my fleet was upon the point of returning without answering my commands, which were to force the entry of your provisions, whatever came off it; and have given it new orders to return into your road, and not stir till it has relieved you with victuals, or that I have sent them an additional strength, for which I have caused men to work with all diligence. Be assured that I will never abandon you, and that I will employ all the force in my kingdom for your deliverance, until it please God to bless me with giving you an assured peace.”

“ Gentlemen.

“ Be not discomfited, though my fleet be returned; hold out to the last; for I am resolved that all my fleet shall perish, rather than you shall not be relieved; and to this end I have countermanded it, and have sent ships to make them change their design that they had taken to come back. I shall shortly send you some number of ships to reinforce it; and, with the help of God, the success will be happy for your deliverance.”

*Guthrie, vol. III. p. 887. Larrey, vol. I. p. 201.*



Anno 1628. 1628; the only advantage which Great Britain had gained in the course of this disgraceful war.

The unhappy fate of the Rochellers, and the miserable situation of the reformed churches, could not fail of exciting in the English a fresh disgust at the conduct of the ministry: this was inflamed by many other causes of complaint. Charles, who had in some measure been the means of fixing the French monarchy on the basis of an established despotism, seemed at present more than ever determined to raise his own government to the same sublime height of tyranny, and had digested his former projects into a more regular plan of execution. The soldiers who returned from the Rochelle expedition were not disbanded\*, but quartered in different parts of the kingdom; some were sent into the Isle of Wight, some into Essex, where they committed great outrages.

Merchants  
imprisoned.

Since the last session of parliament, several wine-merchants had been committed to the Fleet for refusing to submit to an imposition of twenty shillings on the ton; and Charles declared in full council, that it was his absolute will and pleasure, that a new duty of two shillings and two pence the hundred on currants should be added to the old one of three shillings and four pence. Richard Chambers, a merchant, was committed to the Marshalsea prison, for saying, "That greater impositions were required of the merchants in Eng-

\* About this time, those troops who had served abroad under the command of Sir Charles Morgan, and who had a long time with great bravery defended Stoad (situated about twenty miles from Hamburgh, on the other side of the Elbe) after its surrender were sent to the king of Denmark, for the defence of Luckstat; and the thousand horse levied in Germany, for the service of Charles, entered into the pay of the king of Sweden and the duke of Savoy. *Rushworth*, vol. I. p. 637.

land than in any other place, and that they were more screwed up than the Turk." These words not having been expressed in the return of the writ, it was judged insufficient, and the warden of the prison directed to mend it: But the prisoner was advised by the court to submit to the lords of the council, and petition them for his enlargement. Before this time and his second return, Mr. Jermyn, the counsel for the prisoner, moved that he might be dismissed or bailed, as it appeared by the return he was not committed for treason, and that the return did not shew what the words were, whereto he might give answer. The King's attorney desired he might have time to consider of the return, and be informed of the words; and that, in the interim, the prisoner to attend the council-table, and petition. The prisoner stood upon the justice of the law, and the inheritance of the subject. On his importunity, the court commanded him to be bailed\*; but withal told him, that he was indebted to the clemency of the court, it being in their power to draw an indictment against him, if they would, for contemptuous words. The judges, on account of the bailing of Chambers, were sent for to attend the lord-keeper, the lord-treasurer, the lord-privy-seal, and the chancellor of the duchy. The lord-keeper declared to them, that the enlargement of Chambers was without due regard had to the privy-council, they not having been previously made acquainted with it. The judges excused themselves by saying, that the lord-chief-justice had acquainted the lord-keeper in private,

\* On a recognizance of four hundred pounds: four securities were bound in a recognizance of an hundred pounds each. *Rushworth*, vol. I. p. 640.



Anno 1628. before they had proceeded to bail the party ; and moreover added, that what they had done in that affair was according to law, justice, and conscience. On this they were told, that it was necessary, for the preservation of the state, that the power and dignity of the council-table should be preserved, and that it could not be done without a correspondency from the courts of justice.—The attorney-general exhibited an information in the Exchequer against Samuel Vassal, a merchant of London, for refusing to pay the new duty of five shillings and six pence on every hundred weight of currants\*. To this information Vassal pleaded the statute of Magna Charta, and the statute *de tallagio non concedendo* ; and that this duty was imposed without assent of parliament. The barons of the Exchequer refused to hear Vassal's counsel argue for him ; and said that the King was in possession, and they would keep him in it†. On this they sent Vassal to prison, and gave judgment for the King. —The goods of one Rolles, a merchant, and a member of parliament, were likewise seized, and the same judgment given against him in the Exchequer. Those groveling instruments of oppression, the officers of the

\* The information set forth, that king James did, by his letters patent, command the taking the said impositions ; that his majesty that now is, by his letters patent dated the 26th of June, 2 Caroli, did, by the advice of his privy-council, declare his will and pleasure to be, that subsidies, customs, and imposts, should be levied in such manner as they were in the time of king James, until it might receive a settling by parliament ; that the said Samuel Vassal, before the 1st day of October, 4 Car. did bring into the port of London four thousand six hundred and thirty-eight hundred weight of currants, for which he refused to pay duty. *Rushworth*, vol. I. p. 641.

† Vassal's goods had been seized and lodged in the Custom-house.

customs,

customs, who, in proportion to the baseness of their education, are insolent in office, said, with unprecedented impudence, “if all the parliaments were in you we would take your goods.”

—Divers merchandizes belonging to the fore-mentioned Richard Chambers, having been seized in the same manner, he sued forth a writ of replevin to regain possession: The barons of the Exchequer sent an injunction under the seal of their court, commanding the sheriff not to execute the writ, or any the like writs of replevin which should be afterwards sued forth for the delivery of any goods in the like nature detained; and declared in court that such goods were not repleviable by law. On this, the sheriffs of London refused to execute the writ of replevin. Chambers, finding it impossible to obtain justice, offered to give security for the payment of the duties which were demanded: The court refused to take his security, and directed the officers of the customs to detain double the value of the sums which had been by them demanded, and to restore the residue.—To these acts of violence committed against the London merchants, the court gave another cause of disgust, by levying an oppressive fine on the occasion of a riot, in which one Lamb, a supposed conjuror\*, and a creature of the duke of Buckingham, was killed.

\* This Lamb was notorious for an ill fame. As he was coming from the playhouse one evening, the rabble gathered thick about him, and reviled him with the appellation of witch, devil, and the duke's conjuror. He took sanctuary at a vintner's, who, fearing that his house would be pulled down by the violence of the tumult, thrust him out; whereupon the mob, seeing that the city-guard were coming to his rescue, fell upon him, and bruised him in such a manner that he died the same night. The city of London endeavoured to find out the most active persons in this riot, but the aggressors were so faithful to each other that no witness appeared against any individual.



Anno 1628.

Dr. Manwaring's sermons were suppressed by proclamation \* ; but himself, who had been disabled from ecclesiastical preferments in the church of England by censure of parliament, was presented to the rich endowment of the rectory of Stamford-Rivers in Essex, and had a dispensation to hold it with that of St. Giles in the Fields †. About the same time, Mountague, the author of that noxious performance entitled *Appello Cæsarem* ‡, was preferred to the bishopric of Chi-

Rym. Fœd.  
vol. XIX.  
p. 26.

The court, who looked upon this action as an insult on the favorite, fined the city six thousand pounds. *Complete Hist.* vol. III. p. 45. *Rushworth*, vol. I. p. 618.

\* In the beginning of this proclamation the King declares, that the grounds of the sermon were rightly laid to persuade obedience from the subjects to their sovereign, and that for conscience sake. At the same time came out two proclamations concerning recusants: One for the apprehending of Richard Smith, titular bishop of Calcedon, and other priests and Jesuits who had taken orders by authority from the see of Rome; and another declaring the King's pleasure for proceeding with Popish recusants, and directions to his commissioners for making compositions for two parts in three of their estates due by law. These proclamations gave little satisfaction; the first because the delinquents taken were thought to be treated too favorably, and the second for the same reason; viz. The recusants got off upon easy terms, by means of compositions at under-value, and by letters of grace and protection to the most wealthy. According to Prynne, the proclamation against the bishop of Calcedon was procured at the earnest solicitations of the regular priests in England and Ireland, who violently opposed Smith's episcopal jurisdiction. *Rushworth*, vol. I. p. 633. *Rymer's Fœdera*, vol. XVIII. p. 1024, 1037. vol. XIX. p. 6.

† He was afterwards promoted to the deanry of Worcester, and finally to the bishopric of St. David's. *Heylin's Life of Laud*, p. 180.

‡ This book was wrote on the following occasion: Two divines of the Norwich diocese, Yates and Ward, had informed against Mountague's dangerous errors of Arminianism and Popery, disseminated through a work which he had published, in answer to one which had been written by the Papists, called the Gagger of Protestants. Mountague wrote this second work

chester. A proclamation\* was issued to call in his book, with a prohibition against preaching and writing *pro* or *con* on the subject. Before this was done, the edition of Mountague's book had been vended, and out of risk of seizure; but it effectually suppressed the several answers to it, written by Dr. Goad, Dr. Featly, Burton, Ward, Yates, Wotton, and Francis Rouse, Esq. Divers of the printers of these performances were questioned in the High-commission court.

Laud was now, on the death of Buckingham, become supreme favorite†. Before the meeting of the parliament, which had been prorogued from the twentieth of October to the twentieth of January, Charles held a consultation with his cabinet-council. Here a settled plan of action was determined for the ensuing session, in what manner the servants of the crown were to behave in particular cases: That if the house of Commons urged the delivery of the merchants goods before they proceeded on the bill of tonnage and poundage, then the answer of the privy-counsellors to be as follows: That if the house intend to grant tonnage and

work to vindicate his principles. He dedicated it to the King, and entitled it *Appello Cæsarem*; applying the words which had been once used to Lewis of Bavere, emperor of Germany; *Domine Imperator, defende me gladio & ego te defendam calamo*. "Lord Emperor, defend me with thy sword, and I will defend thee with my pen." *Fuller's Church Hist.* ed. 1655, book xi. p. 119.

\* To both Manwaring and Mountague was granted a royal pardon of all errors heretofore committed by them, either in speaking, writing, or printing, for which they could be any way liable to be hereafter questioned. *Complete Hist. of England*, vol. III. p. 53.

† William, earl of Pembroke, the chancellor of Oxford, to flatter Charles, committed his power over the university to Laud; who this year framed statutes for limiting the free election of proctors. *Rushworth*, vol. I. p. 637. *Laud's Diary, in the Breviate of his Life by Prynne*, p. 15.



Anno 1628. poundage to the King, as it hath been granted to his predeceffors, it will end all disputes. If this answer did not satisfy, then the King was to declare, that if they would pass the bill in the same manner as his ancestors had it \*, he would graciously acknowledge the holding it by grant of parliament. If this was refused, then to avow a breach. To complete this kingly plan, a bill of tonnage and poundage was to be prepared by the ministry, before the parliament met. Other matters were likewise taken into consideration: That should the parliament proceed to censure the actions of the late duke of Buckingham; to accuse upon common fame the King's servants now living; to charge them with ill counsel to the King; to handle matters of religion, only proper for his majesty and a convocation to determine; to raise objections against his majesty's speech the last day of the last session, as trenching upon the liberty of the subject; in these and the like cases should the house proceed towards a resolution, then the privy-counsellors who were of that house were to intimate that such debates would tend towards a breach, and would not be admitted: on this the King was to declare that he would not suffer such irregular courses of proceeding.

It was not without some grounds that the resolutions of the ministry were thus arrogant and assuming. They had at this time, with the bribe of a peerage, and the presidentship of the council in the northern parts, bought off from the popular party Sir Thomas Wentworth †, a man

Rym. Fœd.  
vol. XIX.  
p. 9.

\* That is, without guarding the subject from arbitrary impositions, not limited by parliament.

† He was at first created Baron Wentworth of Wentworth Wood House, and then a viscount.

whose

whose principles of opposition had been strongly stimulated on an envious pique against Sir John Saville, a neighbor of his, an avowed creature of the court\*, whose favor from Buckingham had

\* Sir John Saville had been formerly of the popular party. The same means had been taken to debauch him from a sense of duty to the public as were now practised to entice Sir Thomas Wentworth; viz. loading him with court-preferment. He was first made comptroller of the household, and then created a peer.

It appears by Letters and Dispatches of Thomas Earl of Strafford, published by William Knowles in 1739, that there had formerly subsisted a kind of intimacy between the two families of the Savilles and the Wentworths, and that this continued while they were both in the opposition. Sir John Saville, on some threatenings from the court, made a voluntary resignation of his place of custos rotulorum to Sir Thomas Wentworth. When Sir John Saville was taken into favor, on the terms of his apostacy, Buckingham demanded of Sir Thomas Wentworth that he should yield this place again to Sir John Saville. Hence arose Wentworth's animosity to Saville, who from this period till the apostacy of the former, received, to the great disgust of his rival, continued instances of favor and partiality. The following instance of Wentworth's inveteracy to Saville shews the character of the former in a strong light, that all his pretended notions of Justice and Liberty were put on to indulge some present passion, or prospect of future advantage. Sir Thomas Wentworth and Sir George Calvert, secretary of state, stood in the year 1620 for knights of the shire for the county of York. Sir Thomas Wentworth had heard that Sir John Saville intended to propose himself to the county, and on this intelligence writes in the following manner to Sir George Calvert: "Sir John Saville is by his instruments exceeding busy, intimating to the common sort, under-hand, that yourself, being not resiente in the county, cannot by law be chosen; and being his majesty's secretary, and a stranger, one not safe to be trusted in the county: but all this, according to his manner, so closely and cunningly, as if he had no part therein; neither doth he as yet farther declare himself, but only that he will be at York the day of election: And thus finding he cannot work them from me, labors only to supplant you. I endeavor to meet with him as well as I may, and omit nothing which my poor understanding tells me may do you service. My lord-president hath writ to his freeholders on



Anno 1628. given Wentworth such disgust, that he put himself at the head of the country interest in that

your behalf; and seeing he will be in town on the election-day, it were, I think, very good he would be pleased to shew himself for you in the Castle-yard, and that you writ unto him a few lines, taking notice you hear of some opposition, and therefore desire his presence might secure you of fair carriage in the choice. I have heard that when Sir Francis Darcy opposed Sir Thomas Lake in a matter of like nature, the lords of the council writ to Sir Francis to desist. I know my lord-chancellor is very sensible of you in this business: A word to him, and such a letter would make an end of all."

The following letter, of Sir Arthur Ingram to Sir Thomas Wentworth, shews, that the latter had at this time a view of making use of his interest in the county, to render himself of consequence enough to be bribed by the court.

Sir Arthur Ingram to Sir Thomas Wentworth.

"I find your and my good friend removed from his place, and the seal given to Sir Thomas Coventry. By this you and I both have lost a worthy and good friend; but it is easier in these times to lose a good friend than to get one: But these be things of the world, in which a man's best help is patience. Another good friend of yours, which is my lord-marshal \*, hath the hand of the great duke upon him, who hath brought the King that he will hardly speak to him. The man who hath done you much wrong, both to the King and him, is the chancellor of the duchy; but, on my creed, you are much beholden to the chancellor of the Exchequer, who hath done you good offices with the King, and will continue the same upon all occasions."

\*Lord Arundel.

The good friend first mentioned was Williams, at this time lord-keeper. He had made several proposals to Buckingham to engage Sir Thomas Wentworth to his party, by granting him court-favor: These proposals Buckingham rejected with disdain, and the decline of the keeper's influence retarded the measure till after the death of Buckingham. Sir Thomas Wentworth, in a letter to Sir Richard Weston, chancellor of the Exchequer, relates, "That at the dissolved parliament at Oxford he had been moved from and in behalf of the duke of Buckingham, with promise of his good esteem and favor; that he had answered, he honored the duke's person, and was ready to serve him in the quality of an honest man and a gentleman." "You are privy, writes he to Sir Richard Weston, how I performed what I promised. The consequence of all this was the making me sheriff the winter after.

It

county, and being a good speaker, had great sway in the house. The frail man was at first ashamed of his apostacy\*, and concealed his change of sentiments; but at length pretended to justify himself by condemning the principles of his former associates. Mr. Pym bad him be at no pains to excuse his conduct; "You have left us, said he, but I will not leave you whilst your head is on your shoulders †."

Anno 1628.  
Wentworth's apostacy.

Echard,  
vol. II. p. 82.

On the meeting of the parliament ‡, the first act of the Commons was to revive all their com-

New session.  
20 Jan.

It is true the duke, a little before Whitsuntide last, at Whitehall, in your presence, said it was done without his grace's knowledge; that he was then in Holland. At Whitehall, Easter last, you brought me to the duke; his grace did before you contract, as he pleased to term it, a friendship for me; all former mistakes laid asleep, forgotten. After I went, at my coming out of town, to receive his commands, to kiss his grace's hands, where I had all the good words and good usage that could be expected, which bred in me a great deal of content, a full security. Now the consequence here again is, that even yesterday I received his majesty's writ for the discharging me of the poor place of custos rotulorum, which I held here." Wentworth, thus disappointed in his hopes of preferment, returned again to his patriotism: His stiff refusal of the loan, and his spirited conduct in that parliament memorable for passing the Petition of Right, was after this period. *Strafford's Letters*, fol. ed. 1739, vol. I. p. 11. 13. 28. 34. & seq. *Heylin's Life of Laud*, p. 194.

\* This black crime, of prostituting public virtue to private gain, was not in these days countenanced by the number of the offenders.

† When he was about making his peace with the court, he desired an interview with Pym; discoursed with him on the danger they were likely to run, and what advantages they might have, if they would but listen to some offers which would probably be made them from the court. *Wellwood's Mem.* p. 48.

‡ The parliament had been prorogued from the 20th of October to the 20th of January.

mittees.



Anno 1628. mittees \*. They next proceeded to take into consideration † in what particulars the Liberty of the subject had been invaded, contrary to the Petition of Right. It was ordered, that Mr. Selden and others should see if that Petition and the answer were inrolled in the parliament-rolls and courts at Westminster, according to the promise his majesty had made last session. On Mr. Selden's report, that the King's speech on the prorogation of the parliament was entered together with the Petition, the house went into an immediate debate, notwithstanding a motion of Mr. Pym that it might be deferred till Thursday, on account of the thinness of the assembly :

Proceedings  
and Debates  
of the House  
of Com-  
mons, by Sir  
Thomas  
Crew, ed.  
1707, p. 2,  
& seq.

“ This matter,” said Sir John Elliot, “ concerns the honor of the house, and the Liberties of the kingdom. It is true it deserves to be deferred till a fuller house ; but it is good to prepare things, for I find this to be a point of great consequence. I desire, therefore, that a select committee may both enter into consideration of this, and how other Liberties of this kingdom have been invaded. I find in the country the Petition of Right printed indeed, but with an answer which never gave any satisfaction. I desire a committee may consider thereof, and present it to the house ; and that the printer may be sent for to give satisfaction, and to be examined about it, and to declare by what warrant it was printed.” “ For this Petition of Right, said Mr. Selden, it is well known how lately it hath been violated since our last meeting. Our liberties for life, person, and freehold, how have they been in-

\* On privilege, on religion, on courts of justice, on grievances, on trade. *Journals of the Commons*, vol. I. p. 920.

† The whole house was resolved into a committee. *Journals of the Commons*, vol. I. p. 920.

vaded ?

vaded? Have not some been committed contrary to that petition? Now we know this invasion, we must take notice of it. For liberties in estate, we know of an order made in the Exchequer, that a sheriff was commanded not to execute a replevin; and mens goods are taken away, and must not be restored. No man ought to lose life or limb but by the law, and hath not one lately lost his ears \*? Next they will take away our arms, our legs, and our lives. Let all see we are sensible of this. Custom creeps on us. Let us make a just representation to his majesty." The house having given way to Sir John Elliot's motion, Norton, the King's printer, was called to the bar, and examined concerning the additional speech printed with the Petition of Right. Mr. Selden and four other members, on a command of the house, went home with Mr. Norton, and informed themselves of the warrants by which he had acted. They reported, that on their examination of Mr. Norton and Mr. Bill, the King's printers, they found that the clerk of the house of Lords had sent the original Petition of Right, with the King's second answer to it; that during the sitting of parliament they had printed about fifteen hundred copies, of which few were divulged; that the day after the session was ended, Mr. Attorney sent for Mr. Bill to his chambers, and told him, by his majesty's command, that these should not be published, and that the lord-privy-seal told him as much; that soon after he was sent for to court, where Mr. Attorney told him, he must print the Petition of Right, with his majesty's first answer to it, and his last speech.

\* This severity was inflicted on one Savage, by order of the Star-chamber.



Anno 1628.  
Journals of  
Commons,  
vol. I. p. 921.  
Parl. Hist.  
vol. VIII.  
p. 247.  
Crew's De-  
bates, p. 5,  
& seq.

On Thursday the twenty-second, Mr. Rolls, a member, informed the house that his goods were seized for not paying the customs demanded, although he offered to pay what the law adjudged to be due. "By this information, said Sir Robert Philips, you see the misfortunes of these times, and how necessary it is for this assembly to meet to serve his majesty, and preserve ourselves: I am confident we came hither to do both. Great and weighty things wound deep. Cast your eyes which way you please, you shall see violations on all sides: Look on the liberty of the subject, look on the privileges of the house; let any say if he read or saw the like violations by inferior ministers that over-do their commands. They knew the party was a parliament-man; nay, they said, If all the parliament was in him, they would do the thing, and justify it. If we suffer the liberties of this house to wither out of fear, we shall give a wound to the happiness of this kingdom. The course of justice was interrupted. Order was made in the Exchequer for the stay of the goods; since this there has been a seizure to the amount of five thousand pounds, for pretended duties of two hundred. In the first of king James, by reason of a sickness, the parliament was prorogued, and then there was some boldness to take tonnage and poundage; and then we questioned the men who demanded it, for there was no right to demand it. Let us proceed with perseverance in our duties to make up breaches; let a committee be appointed to consider of these duties."

Here secretary Cook made a speech, recommending moderation. To this Mr. Littleton made the following reply: "We have had moderation preached to us in parliament, and we follow

follow it. I would others did the like out of parliament. Let the parties be sent for who violated the liberties of parliament, that they may have their doom." Before the house came to a resolution on the subject, they were interrupted by a message from the King, which intimated a desire that farther proceedings should be forborn till the morrow, when his majesty was resolved to speak with both houses in the Banqueting-house at Whitehall.

Anno 1628.

Journals of  
Commons,  
vol. I. p. 921.

According to the resolutions of the privy-council, previous to the meeting of the parliament, Charles addressed the Lords and Commons in the following manner: "The care I have to remove all obstacles which may hinder the good correspondence, or cause a misunderstanding, betwixt me and this parliament, made me call you hither at this time, the particular occasion being a complaint lately moved in the lower house. And as for you, my lords of the higher house, I am glad to take this, and all other occasions, whereby you may clearly understand both my words and actions; for as you are nearer in degree, so you are the fittest witnesses for kings. The complaint I speak of, is for staying of mens goods who deny tonnage and poundage. This may have an easy and short conclusion, if my words and actions are rightly understood: for by passing the bill as my ancestors have had it, my past actions will be concluded, and my future proceedings authorized; which certainly would not have been stricken upon, if men had not imagined that I had taken those duties as appertaining unto my hereditary prerogative, in which they are much deceived; for it ever was, and still is, my meaning, by the gift of my people to enjoy it. And my intention in my speech at the end of the last session was not

Crew's Pro-  
ceedings of  
the House of  
Commons,  
p. 9, & seq.



Anno 1628. to challenge tonnage and poundage as of right, but *de bene esse*; shewing you the necessity, not the right, by which I was to take it until you had granted it unto me; assuring myself, according to your general professions, that you wanted time, and not good-will, to give it me: wherefore, having now opportunity, I expect that, without loss of time, you make good your former professions; and so, by passing the bill, to put an end to all questions arising from this subject; especially since I have removed the only obstacle which may trouble you in this business." Charles ended his speech with blaming the Commons for enquiring into the infractions of the Petition of Right, and recommended a mutual confidence, that this session might end in a perfect and good correspondency between them.

It has been already observed, that the Commons asserted their right of assent to this tax with a view to oppose the illegal pretensions of the crown, and to restrain the power it had usurped of making arbitrary impositions on the subject. This could no otherwise be effected than by making tonnage and poundage a temporary tax, or by passing the bill in a manner which should indisputably fix the rate of customs as limited by parliament. Former sovereigns strictly kept to the sense of the obligation. It had never been violated from the time of Edward III. till the reign of Mary. This princess's example of laying on one arbitrary imposition had been so much improved by her successors, as to have become a heavy burden on trade, and rendered the revenue of the crown too much independent of the parliament for the safety of the constitution.

This history, perhaps, does not furnish us with any single example which more fully exposes the

the shallowness of the ministry, than the attempt to impose this ridiculous expedient mentioned in the King's speech, of settling the present weighty point in dispute. Had the parliament passed the act in the manner which Charles had dictated, and without restitution of the goods taken in the intermediate period, they would not only have given up the means of redressing the most important grievance of the nation, but would have effectually authorized an example which rendered this unlimited revenue as independent of parliament, as any other of the most indisputable appendages of the crown. If the parliament will accede to the power of laying on impositions, Charles graciously promises to acknowledge that he holds it by such a concession: But this is a privilege I cannot want, says he; it is necessary to the freedom and grandeur of the monarchy; your obstinacy in this point justifies the taking that from you by force, which it is in your option to make your own act and deed. Might not the same powerful arguments be used for the taking subsidies, or any other violation of the constitution? and might it not be said, according to this casuistry, that it was the fault of the parliament if any illegal acts were committed by the government, since it was in their power to authorize tyranny, and give the strength of law to usurpation. Give me your purse, and you will no longer suffer the injury of violence. Surrender willingly your liberty, and what you now complain of as tyranny will become law.

The Commons took no immediate notice of this conciliating proposal. They rejected a motion of secretary Cook, that the bill of tonnage and poundage might be read, and entered with great warmth on the important point of religion.

This



Anno 1628.

Crew's Pro-  
ceedings and  
Debates of  
the Com-  
mons, p. 13,  
& seq.

This debate was opened by Mr. Sherland. It was pursued by Mr. Rouse \*, Mr Pym, and others. " We have of late entered into consideration of the Petition of Right, said Mr. Rouse, and the violation of it; and upon good reasons: for it concerns our goods, liberties, and lives. But there is a right of an higher nature, which preserves us far greater things, even the eternal life, our souls, yea, our God himself; a right of religion derivated to us from the King of Kings, confirmed to us by the kings of this kingdom, and enacted by laws in this place, streaming down to us in the blood of martyrs, and witnessed from Heaven by miracles, even miraculous deliverances. This right, in the name of this nation, I now claim; and desire that there may be a deep and serious consideration of the violations of it. —Lower natures being backed by higher, increase in courage and strength; and certainly man being backed with omnipotency, is a kind of omnipotent creature. All things are possible to him who believeth; and where all things are possible, there is a kind of omnipotence. Wherefore, let it be now the unanimous consent and resolution of us all, to make a vow and covenant from henceforth to hold fast one God and one religion; and then we may expect prosperity. To this covenant let every one say Amen."

In the course of this debate, Arminianism was termed the spawn of Popery; it was affirmed, that the success of this doctrine was more to be feared than a second Spanish invasion. Mr. Pym asserted, that regulations in religious matters could no where so well be determined as in parliament;

\* This was, in all probability, the author of one of those answers to Mountague's book which had been suppressed by the ministry.

that the convocation had not such a power, because it was but a provincial synod; that the high-commission could not, because it had its authority from parliament, and the power of the derivative was inferior to that of the original. Sir Francis Seymour observed, that his majesty's name was used to stop proceedings against Papists, contrary to his public professions, nay, to his own proclamations, and instructions to the judges. "Whatsoever, added he, is done in the country is undone above." Anno 1628.

Both houses agreed to petition the King for a fast \* on the deplorable situation of the reformed churches. Their cases, says the petition, we do with bleeding hearts commiserate. The King granted this request, but in a manner which did not help to conciliate the affections of the parliament. "The chiefest motive of your petition, said he, being the deplorable state of the reformed churches abroad, is but too true; and our duty, so much as in us lieth, is to give them all possible help. Yet certainly fighting † will do them more good than fasting; and though I do not wholly disavow the latter, yet I must tell you that the custom of fasting every session is but lately begun; and I confess I am not satisfied with the necessity of it at this time: yet, to shew you how smoothly I desire your business to go on, eschewing as much as I can questions of jealousies, I do willingly grant your requests herein; but with this note, that I expect that this shall never

*Calendar of the Journals of the House of Lords, MSS. folio. Parl. Hist. vol. VIII. p. 264, & seq.*

\* At the keeping of this fast, three sermons were preached before the house. *Parl. Hist.* vol. VIII. p. 310.

† The recent examples of the expeditions to the Isle of Rhee and Rochelle shew that fighting, under the management and directions of Charles and his ministry, had been of little service to them.



Anno 1628. hereafter be brought into a precedent for frequent fasts, except upon great occasions; and for the form and time, I will advise with my lords the bishops, and then send a particular answer to both houses."

A report was made from the committee of religion, that a remonstrance on that subject had been commanded away by the King, for want of which the committee could not proceed. Secretary Cook returned this remonstrance to the house, with a message from the King to the following purport: That he hoped they would proceed with tonnage and poundage, and give precedency to that business, to put an end to farther disputes between him and some of his subjects. Sir Walter Earl moved that religion should have the precedency of all matters. "But let no man mistake me, said he, as if I were less sensible of the violations of the subjects liberties than any man else who sits here, whosoever he be. No, Mr. Speaker, I know full well that the cause of justice is God's cause, as well as the cause of religion. But what good will those rights and liberties do me or any man else who resolves to live and die a protestant? Nay, what good will they do any man who resolves to live and die a freeman, and not a slave, if Popery and Arminianism, joining hand in hand, as they do, be a means, together with the Romish hierarchy, to bring in a Spanish tyranny among us? under which those laws and liberties must of necessity cease." The house assented to Sir Walter Earl's proposal; and moreover, on a spirited speech of Sir John Elliot, in which he affirmed, that their faith and religion were in danger by the late declaration published in the King's name \*, they came to a resolution to make the fol-

\* By the advice of Laud, the book of articles was re-printed and published, with a prohibition prefixed to them, that no doctrine

lowing protestation\*: "We, the Commons now in parliament assembled, do claim, profess, and avow for truth, the sense of the articles of religion which were established in parliament in the reign

Anno 1628.  
Journals of  
Commons,  
vol. I. p. 924.

doctrine should be taught which differed in the least from the said articles. A declaration which follows this prohibition is what Sir John Elliot alludes to. The offensive passage is as follows: "That we are supreme governors of the church of England; and that if any difference arise about the external policy, concerning injunctions, canons, or other constitutions whatsoever thereunto belonging, the clergy in their convocation is to order and settle them, having first obtained leave under our hand and seal so to do; and we approving their said ordinances and constitutions, providing that none be made contrary to the laws and customs of the land. That out of our princely care that the churchmen may do the work which is proper unto them, the bishops and clergy from time to time in convocation, upon their humble desire, shall have licence under our broad seal to deliberate thereof, and to do all such things, as being made plain by them, and assented to by us, shall concern the settled continuance of the doctrine and discipline of the church of England established; from which we shall not endure any variation or parting in the least degree."

"From this declaration, said Sir John Elliot, we are in danger to be ruined and overwhelmed. I beseech you mark, the ground of our religion is in the articles. If there be any difference of opinions concerning the sense and interpretation of them, the bishops and clergy in convocation have a power admitted to them to do any thing which shall concern the continuance and maintenance of the truth professed; which truth being contained in these articles, and these articles being different in the sense, if there be any dispute about that, it is in them to order which way they please; and, for aught I know, Popery and Arminianism may be a sense introduced by them, and then it must be received." *Heylin's Life of Laud*, p. 188, & seq. *Crew's Proceedings of the House of Commons*, p. 37.

\* On bishop Laud and Mountague being mentioned in the house as the advisers of this declaration, Sir Humphrey May, a privy-counsellor, said, "That though these two men had been censured by the Commons as Arminians, yet they had on their knees before the King and council, with tears in their eyes, protested they hated these novelties." *Parl. Hist.* vol. VIII. p. 279.



Anno 1628. of our late queen, Elizabeth, which by public act of the church of England, and by the general and concurrent expositions of the writers of our church, have been delivered to us; and we do reject the sense of the Jesuits and Arminians wherein they differ from us." On a second message from the King concerning the precedency of tonnage and poundage, Sir Thomas Edmunds, the treasurer of the household, attempted to advance the business, and reproved the Commons for their delay. He was sharply answered by Mr. Coriton: and the house sent up a kind of apology to the throne, in which they complained that there had been an irregularity, contrary to their privileges, in the bringing in the bill of tonnage and poundage; that the frequent interruptions the King's messages occasioned, forced them to spend time in framing apologies, which might be more profitably employed in services of his majesty and the commonwealth, a duty they had with all diligence applied themselves to; and having found that religion was threatened with extreme danger, they thought, and still continued to think, that they could not, without impiety to God, disloyalty to his majesty, and unfaithfulness to those for whom they were put in trust, retard their proceedings on this point, till something was done to secure that which they preferred above their lives, and all earthly things whatsoever.

Charles, in his answer to this apology, affirmed, that he had a prerogative to recommend bills, but disavowed Cook's offering that of tonnage and poundage in his name: he insisted on the ridiculous argument, that the House of Commons were the aggressors in the quarrel between him and his subjects, since it was in their power to put an end to the dispute, by giving him a right to what he

was

was now obliged to take by violence ; and pressed the giving precedency to tonnage and poundage in preference to religion. Charles's disavowal obliged the officious secretary to make an awkward excuse to the house. He confessed, that he had said his majesty desired the bill, and that he required it in his majesty's name ; but that he had made use of those expressions to cut all disputes short. The spirited judicious Sir John Elliot did not fail to make an advantage of this incident. " I find, said he, his majesty's ears open ; and if these things be thus as we see, that then he is not rightly counselled. I am confident we shall render his majesty an account of what he expecteth. But, Sir, I apprehend a difference between his majesty's expression and those of his ministers. First, that bill was here tendered in his majesty's name, and now we find that his majesty disavows it. What wrong is this done to his majesty and this house, to press things in his sovereign's name, to the prejudice and distraction of us all ? I think him not worthy to sit in this house." Sir John Finch, the speaker, interfered in favor of Cook. His insignificant character preserved him from any farther attack ; and the debates of the Commons turned on the King's declaration concerning uniformity in the doctrine of the church. Mr. Coriton said, that it was to suppress the truth ; and that, to the grief of all good men, the professors of Arminianism had the preferments in the church. The pardons which had been granted to Mountague, Sibthorp, Manwaring, and Cousins \*, were

Anno 1628.

Parl. Hist.  
vol. VIII.  
p.277, & seq.

\* Cousins had written a book for the supposed use of the countess of Denbigh, the sister of Buckingham. She was suspected of being much inclined to Popery. The book was intitled, " A Collection of private Devotion, or the hours of Prayer." There were in it prayers for the first, third, sixth,



Anno 1628. noticed in the house with great disapprobation : and it was ordered, that a sub-committee should have power to send for the records and privy-seal, and other incidents belonging to the pardon ; that they should send to the parties, and question Mr. Attorney about his knowledge therein, and by whose instigation they were obtained. Mr. Attorney signified, that a warrant was sent to him, under the King's hand, to draw a pardon ; that after he had drawn it, the bishop of Winchester sent to see it, and interlined it ; and whereas he had drawn it but for one, Mountague \*

and ninth hours, as also for the vespers and compline, known by the name of canonical hours. On the frontispiece of this book was the name of Jesus, figured in three capital letters [I H S] with a cross upon them, encircled with the sun supported by two angels, and two women praying towards it. This work was looked upon as a preparatory to usher in the superstitions of the church of Rome. It was encountered by Prynne and Burton. Prynne charged it for being framed in general according to the horaries and primmers of the church of Rome. Prynne dedicated this charge to the parliament, who censured Cousins as a churchman tainted with Popish opinions. *Heylin's Life of Laud*, p. 173, & seq.

\* The house attempted to annul Mountague's consecration, on some irregularities in the manner of it. It was an ancient custom, that the election of all bishops in the province of Canterbury was solemnly confirmed by the archbishop, or his vicar-general, in the court of the arches held in St. Mary's church in Cheapside. At and before this confirmation, there was public notice given, that if any person knew any thing to object against the party elected, or the legality of his election, he should come and tender his exceptions. This signification being made, as Mountague stood ready to be confirmed, one Jones, accompanied with many more, excepted against him, on account of the Popery, Arminianism, and other heterodoxies, for which his books had been condemned in parliament ; and chiefly on account of the censures of that court, which had rendered him incapable of church-preferment. Brent, the vicar-general, had devolved his office for that time on Dr. Reeves, the King's advocate, who evaded the intention, by proceeding with the confirmation on pretence that the exceptions

put four in it; viz. himself, Cousins, Sibthorp, and Manwaring. On this occasion, Oliver Cromwell, a member of the house, shewed how very active the bishop of Winchester had been in the favor which had been shewn to Manwaring, and that he gave countenance to ministers who preached flat Popery.

*Parl. Hist.*  
vol. VIII.  
p. 289.

Whilst the Commons were on these matters of religion, an information was brought in from Mr. Rolls, that since his last complaint of the breach of the liberties of parliament, his warehouse had been locked up by one Massey, a pursuivant; and that the day before he had been called forth from the committee in the Exchequer-chamber, and served with a subpœna to appear in the Star-chamber; but the attorney-general had since sent him word that it was a mistake. The house voted this a breach of their privileges. Skemington, the messenger who served the subpœna, was sent for. Mr. Selden observed, that the ill-judged lenity they had hitherto shewn was the occasion of the late af-

*Journals of*  
*Com. vol. I.*  
p. 928.

*Crew's Pro-*  
*ceedings of*  
*Com. p. 67,*  
& seq.

ceptions were deficient in point of form; viz. Not signed by the hand of an advocate, nor presented by any of the proctors authorized to attend that court. This difficulty over, Mountague hastened to his consecration, which was performed at Croydon, Laud and Neile assisting at it.

On these grounds the Commons objected to the legality of Mountague's consecration; this they waved on a motion of Sir Henry Marten, who affirmed, that by the common law the proclamation should only be at the cathedral-church of the diocese where the bishop was to be elected; and that the dean, chapter, and clergy, were the only persons who could legally except. Besides, added he, I conceive it is plain, that the King and the law have power to deprive him of his bishopric, if he deserve the same: therefore it were good to decline this dispute for the present, and to seek to remove him. *Heylin's Life of Laud*, p. 185, & seq. *Parl. Hist.* vol. VIII. p. 285. *Fuller's Church Hist.* p. 131, & seq.



Anno 1628. front \*. The grievances of the other merchants were now enquired into: Sheriff Acton, who had behaved in a contemptuous manner, was sent to the Tower. On this case, Mr. Selden said, he remembered when the house committed both the sheriffs of London to the Tower for an abuse of a less nature; only for countenancing a serjeant in an arrest on a member of parliament, though they did acknowledge their faults at the bar, which this man had not done.

The house next took into consideration a petition of the booksellers and printers, concerning their having been persuianted for printing orthodox books; and that licensing of books was now restrained to the bishop of London and his chaplains. Mr. Selden moved, that a law might be made to remedy this evil. He said, that there was no law in England to prevent the printing of any book, and no other authority for such a restraint but a decree of the Star-chamber. That a man in this case should be fined, imprisoned, and have his goods taken from him, was a great invasion on the liberty of the subject. Mr. Kirton observed, that Cousins had caused the book of Common-Prayer to be newly printed, and had changed the word Minister into the word Priest; and had put out, in another place, the word Elect †; that his lordship the bishop of Winchester, though he had leaped through many

\* Mr. Selden reported from the committee appointed to examine this matter, that the process against Rolls was made out by warrant under Mr. Attorney's own hand. *Journals of the Commons*, vol. I. p. 929.

† A select committee was ordered to take consideration of the differences in the impression of the thirty-nine articles, established by act of parliament, 13 Eliz. *Journals of the Commons*, vol. I. p. 926.

bishoprics \*, yet he had left Popery behind him in every one. A complaint was preferred against this prelate by one Dr. Moore, who reported that the bishop had told him, that times were altered; that he must not preach against Papists now; that he, Moore, had a brother who preached against bowing at the name of Jesus, which he liked not; and that the communion-table stood as in an alehouse, but he would have them set as high altars.

The house began to grow warm on this subject of religious grievance: "If we speak not now, said Sir Walter Earl, we may for ever after hold our peace; when, besides the queen's mafs, there are two other maffes daily in the queen's court; so that it is grown common in discourse, Will you go to mafs? or, Have you been at mafs in Somerset-House? there coming five hundred at a time from mafs. I desire it may be known by what warrant the Jesuits, lately in Newgate, were released?" Mr. Coriton moved, that the King's late declaration might be taken into serious consideration. Sir Richard Grosvenor, after having related the proceedings against Popery last session, with the King's several promises on that head, shewed, that all the evils then complained of were not lessened but increased. "To these griefs and discouragements, added he, I find an addition of that nature which threatens the very ruin and desolation of us all: This is the countenancing and preferring of a plotting, undermining, and dangerous sect of upstart divines. You remember, Mr. Speaker, what care and pains this house took (as a matter of great consequence) to frame a charge

Anno 1623.  
Journ. Com.  
vol. I. p. 930.  
Parl. Hist.  
vol. VIII.  
p. 293.

Parl. Hist.  
vol. VIII.  
p. 293. &  
seq.

\* Rochester, Litchfield and Coventry, Lincoln.

against



Anno 1628. against Mountague; yet was this man, shortly after the ending of the session, dignified with the sacred title of a bishop; and bishop of that see wherein his predecessor \* (a grave and orthodox prelate) had labored, both by his pen and doctrine, to strangle those errors and confute Mountague. Another also of his own profession, little better than himself, I mean time-pleasing Manwaring, hath also tasted extraordinary favor. This man attempted to make his holy function a means to seduce the King's conscience, to misguide his judgment, to disjoint his affection from his people, to avert his mind from calling of parliaments: the particulars of his damned doctrine are yet fresh in our memory. They who go about thus to seduce and corrupt a prince deserve to be hated of all men, as much as those who attempt to poison a public spring or fountain, of which all drink. For this offence he received a just but moderate censure. One particular was, that he should be disabled for ever from holding any ecclesiastical dignity in the church: Yet was this man, immediately after our rising, released from his imprisonment; obtained his pardon in folio; was preferred to a rich living, and (if some say true) cherisheth assured hopes of dignity in the church. If these be steps to ecclesiastical preferments, God be merciful to those churches who fall under the government and feeding of such a clergy!"

Sir Robert Philips said, that the increase of Papists was by connivance from persons in authority; that nine hundred and forty English, Scots, and Irish Papists, were maintained in the Netherlands by their brethren in England.

An order passed, that all members of the house who had any letters, or copies of letters, written  
for

for stay of prosecution for proceeding against Papists, should bring them into the sub-committee for religion. Mr. Coriton moved, that they should, by some law or act of state, remove from their offices those Papists whom they had just cause to suspect. On a motion of Mr. Sel-

Journals of the Commons, vol. I. p. 932.

den, the house went on an enquiry concerning an undue release of some Jesuits who had been arraigned at Newgate, and had formed themselves into a society at Clerkenwell. In this case, secretary Cook, who, though an arrant court-tool, seems to have been very averse to the professors of Popery, gave a detail of these Jesuits, which inflamed the resentment of the house on account of the favor which had been shewn them. In the course of this enquiry, the attorney-general, the earl of Dorset, and the lord-chief-justice of the Common-Pleas \*, fell under severe censures.

\* Richard-son.

Notwithstanding the warmth of these debates on religious grievances, the Commons did not forget the important point of privilege, and the illegal violence which had been used in exacting tonnage and poundage. At a grand committee on this question, Mr. Coriton moved, that the goods which had been taken from the merchants, should be restored to them before they went upon that bill. “Kings, said he, ought not, by the laws of God, to oppress their subjects. I know we have a good king, and this is the advice of his wicked ministers; but there is nothing can be more dishonorable to him.” Mr. Waller observed, that there was not fewer than five hundred merchants threatened in this dealing. Mr. Noy said, that they could not safely give, unless they had possession, the proceedings in the Exchequer nullified, also the informations in the Star-chamber, and the annexations to the Petition



Anno 1628. tion of Right. "I will not give my voice to this bill, added he, unless these interruptions be declared in it. That the King hath no right but by our free gift: If it will not be accepted as it is fit for us to give, we cannot help it. If it be the King's already, as by their new records it seemeth to be, we need not give it." Mr. Selden seconded a motion of sending a message to the Exchequer. He mentioned a precedent of a message sent into the Chancery for a stay of proceedings, and that the message was obeyed. "What answer soever the judges return, adds he, it cannot prejudice us: the law speaks by the records; and if these records remain, they will to posterity preserve the law." "For the point of right, said Mr. Littleton, there is no lawyer so ignorant to conceive it, nor judge of the land to affirm it: I am against giving to the King, or going on with the bill. In this case, by the law, a man cannot be put to a petition of right, but shall recover without petition." "The merchants, said Sir John Elliot, are not only kept from their goods by the customs, but by a pretended justice. I conceive, if the judges of that court of Exchequer had their understandings enlightened of their error by this house, they would reform the same, and the merchants thereby come by their goods." The result of the debate was a message sent to the court of Exchequer, requiring them to make void their orders and affidavits in the business of the merchants.

Journals of  
the Com.  
vol. I. p. 929.

On a motion of Sir John Elliot, concerning the privilege of merchants, the house passed an order that a man having a plaint depending there, he should be privileged in his person, though not freed from suits; and that an intimation should be given the lord-keeper, that no attachment should

Anno 1623.

Crew's Pro-  
ceedings of  
the House of  
Commons,  
p. 96, & seq.Parl. Hist.  
vol. VIII.  
p. 310, &  
seq.

should go forth against the merchants \*, during the privilege granted them in parliament. The barons of the Exchequer returned an answer, in which they insisted that their proceedings had been regular; that they did not determine, nor any ways trench upon, the right of tonnage and poundage; that they had declared the same openly in the court at the making those orders; that they had not, by the same orders and injunctions, barred the owners of the said goods to sue for the same in a lawful course; but that writs or complaints of replevin was no lawful action or course in the King's cause, nor agreeable to the prerogative †. On the report of this message, the house came to a resolution to send for Sir John Wolstenholme, Daws, and Carmarthen, the three farmers of the customs, to their bar. Daws informed them, that the King, a few days before, had ordered him to make no other answer but that the goods were taken for such duties as were due in king James's time. Sir John Wolstenholme pleaded the same command; but moreover said, that he sought not to farm the customs; and had told the King, being sent for, that he was not willing to deal therein, until the parliament had granted it. The other two acknowledged the seizing the goods, though they knew that Rolls was a parliament-man. They all three said, that they did not conceive any privilege of

\* An information had been presented against Mr. Chambers for refusing to pay tonnage and poundage, while his petition of relief was lodged in parliament. *Journals of the Commons*, vol. I. p. 931.

† Oldmixon makes a very apt remark on this answer of the barons of the Exchequer: "That the merchants had been imprisoned and plundered for refusing to pay a tax which the judges durst not determine they ought to pay." *Oldmixon's Hist. of the Stewarts*, fol. ed. 1730, p. 104.

the



Anno 1628. the parliament to lie against the King \* in that case.

Parl. Hist.  
vol. VIII.  
p. 313.

The house soon put the King's name out of the question, and fell into a high debate concerning their privileges. Mr. Littleton argued, that all privileges were allowed for the benefit of the commonwealth; that the parliament's privilege was above any other, and the parliament could only decide on the privilege of parliament, not any other judge or court; that there was a law which made it high treason to kill a parliament-man; and that all privilege was good, unless in cases of high treason, felony, or breach of the peace. Sir John Elliot declared, that the commonwealth received life from the privileges of the House of Commons.

It was resolved on the question, that Mr. Rolls should have privilege of parliament for his goods seized the thirtieth of October †. When they were going to proceed on the delinquency of the

\* On the examination of the customers, the King's warrant was read in the house. "Whereas the lords of the council, taking into consideration our revenue, and finding that tonnage and poundage is a principal revenue of our crown, and hath been many ages, have therefore ordered, &c. Know ye that we, by the advice of the lords of our council, do declare our will hereby, that all those duties be levied and collected as they were in the time of our said father, and in such manner as we shall appoint. And if any person refuse to pay, then our will is, that the lords of the council, and the treasurer, shall commit to prison such so refusing, until they conform themselves. And we give full power to all our officers to receive, levy, and collect; and we command our barons and officers from time to time to give all assistance to the farmers of the same, as fully as when they were collected by authority of parliaments."

† When the question of privilege was argued, an order passed the house, that no member should go out of town without leave, and every member after nine o'clock should attend. *Journals of the Commons*, vol. I. p. 929.

farmers

farmers of the customs, they were interrupted by secretary Cook, who told them from the King, that what had been done by his farmers and officers of the customs had been done by his own direction and commandment; and therefore he could not in this sever the act of his officers from his own act; neither could his officers suffer for it, without high dishonor to majesty.

Anno 1628.  
Journals of  
Commons,  
vol. I. p.  
932.

This message was received with such indignation, that the Commons, with almost a general voice, cried out, "adjourn, adjourn." On their re-meeting, on the twenty-fifth of February, after reading certain articles \* concerning the dangers

History of  
Charles, by  
H. L. p. 19.

\* Among these articles were the following ones; viz. Erecting altars: changing the usual and prescribed manner of placing the communion-table, and setting it at the upper end of the chancel, North and South, in imitation of the high altars, adorning it with candlesticks, making obeisance by bowing to it: commanding men to stand up at *Gloria, Patria*: bringing men to question and trouble for not obeying that command, for which there is no authority: enjoining that no women be churched without a veil: setting up pictures, lights, and images in churches: praying towards the East: crossing at *Omnem motum & gestum*: the suppressing and restraints of the orthodox doctrine contained in the articles of religion, confirmed the thirteenth of Elizabeth; publishing books, and preaching sermons, contrary to the former orthodox doctrine: the preferring those who are known to be un-found in religion: instance Mr. Mountague, made bishop of Chichester; the late bishop of Carlisle, advanced to the bishopric of Norwich; a known Arminian made bishop of Ely; the bishop of Oxford, a long-suspected Papist, advanced to the bishopric of Durham; Mr. Cousins advanced to dignity and a great living; Dr. Wren made dean of Windsor, and one of the High-commission court.

Dr. Wren was one of the chaplains whom James sent into Spain to his son, as a man whose principles did not differ widely from the ceremonies of the Romish worship. The following curious articles are among the instructions which were given him relative to his office: That the room appointed for prayers should be adorned chapel-wise, with an altar, fonts, palls, linen-coverings, demy-carpet, candlesticks, tapers, chalices, patens,



Anno 1628. of Popery and Arminianism, they were farther adjourned, by the King's command, till the second of March.

Crew's Proceedings of Com. p. 145, & seq.

On this day, Sir John Elliot, after prayers were ended, addressed the house in the following manner: "The misfortunes we suffer are many: Arminianism undermines us; Popery comes in upon us. They mask not in strange disguises, but expose themselves to the view of the world. In the search of these, we have fixed our eyes not on the actors, the Jesuits and priests, but upon their masters, those who are in authority: thence it cometh we suffer; the fear of these makes our interruptions. You have some prelates who are their abettors; the great bishop of Winchester, we know what he hath done to favor them. This fear extends to some others; the lord-treasurer, in whose person all evil is contracted, both for the innovation of our religion, and invasion of our liberties: he is a great enemy of the commonwealth. I have traced him in all his actions, and I find him building on those grounds laid by his master, the great duke: he secretly is moving for this interruption. And from this fear they go about to break parliaments, lest parliaments should break them. I find him the head of all

pattens, a fine towel for the prince, other towels for the household, a traverse of water for the communion, a bason and flaggon, two copes; that every one be uncovered at prayer, kneeling at due times, standing up at the name of Jesus; that the communion be celebrated in due form, with an oblation of every communicant, and admixing water with the wine: the communion to be as often used as it shall please the prince to set down; smooth wafers to be used for the bread; that they carry the articles of our religion in many copies, the books of Common-Prayer in several languages, store of English service-books, the King's own works in English and Latin. *Parl. Hist.* vol. VIII. p. 319, & seq. *Heylin's Life of Laud*, p. 106.

that

that party, the Papists; and all the Jesuits and priests derive from him their shelter and protection. And I protest, as I am a gentleman, if my fortune shall be ever again to meet in this honorable assembly, where I now leave I shall begin again."

On this speech of Sir John Elliot, the speaker, fearing the house would come to some spirited resolution, delivered from his chair a message from the King to adjourn till the Tuesday seven-night. Notwithstanding this interruption, Sir John Elliot offered a remonstrance on tonnage and poundage \*. The popular members objected, that it was not the office of the speaker to deliver any such command; that the adjournment of the house properly belonged to the house itself †; and after they had settled some things they thought convenient to be spoken of, they would satisfy the King. The remonstrance on tonnage and poundage was again offered to be put to the question; but the speaker refused, saying, he was commanded otherwise by the

\* This remonstrance, after shewing the illegality of taking tonnage and poundage without grant of parliament, ends in the following manner: "And therefore most humbly beseech your majesty to forbear any farther receiving the same; and not to take it in ill part from those of your majesty's loving subjects who shall refuse to make payment of any such charges, without warrant of law demanded; and as by this forbearance your most excellent majesty shall manifest unto the world your royal justice in the observation of your laws, so they doubt not but hereafter, at the time appointed for their coming again, they shall have occasion to express their great desire to advance your majesty's honor and profit." *Parl. Hist.* vol. VIII. p. 330.

† The twelfth and eighteenth of James, the house resolved, that it was in their power to adjourn or sit. Sir Edward Coke said, the King makes a prorogation, the house adjourns itself. A commission of adjournment the house never read; but say, the house adjourns itself.



Anno 1628. King. This drew a sharp reprimand from Mr. Selden. Sir John Finch, trembling, replied, that he had an exprefs command from the King, fo soon as he had delivered his meſſage to riſe. On this he left his chair, but was drawn to it again by Mr. Holles, ſon to the earl of Clare, and Mr. Valentine. Sir Thomas Edmunds, and other creatures of the court, endeavored to free the ſpeaker; the popular party kept him in the chair, and Mr. Holles ſwore he ſhould ſit ſtill till it pleaſed the houſe to riſe. “I do not ſay I will not, ſays the ſpeaker, ſobbing; I dare not. Do not command my ruin. I dare not ſin againſt the command of my ſovereign.” Mr. Selden, with many ſtrong arguments, endeavored to rouse a ſenſe of virtue in him; but he ſtill refuſed, though with extremity of weeping and ſupplicatory orations, to proceed on his duty. Sir Peter Hayman, a countryman and relation of his, told him, that he was ſorry he was his kinfman; that he was the diſgrace of his country, and a blot to his family; that all the inconveniences which ſhould follow (yea, their deſtruction) ſhould be derived to poſterity as the iſſue of his baſeneſs; that he would be remembered with ſcorn and diſdain; that ſince he could not be perſuaded to do his duty, he thought fit he ſhould be called to the bar, and a new ſpeaker choſen. Neither Of Kent. counſel, entreaty, nor threats prevailing, Mr. Holles was required to read the following articles, as the proteſtation of the houſe; viz. \*

Crew's Pro-  
ceedings and  
Debates of  
the Com-  
mons, p. 157,  
& ſeq.  
Proteſtation  
of the Com-  
mons.

“Firſt, Whoſoever ſhall bring in innovation in religion, or by favor ſeek to extend or introduce Popery and Arminianiſm, or other opinions

\* The clerk, after the example of the ſpeaker, refuſed to read the articles, though he was commanded to read them by the houſe. *Parl. Hiſt.* vol. VIII. p. 327.

disagreeing from the true and orthodox church, shall be reputed a capital enemy to this kingdom and commonwealth. Secondly, Whosoever shall counsel or advise the taking and levying the subsidies of tonnage and poundage, not being granted by parliament, or shall be an actor or instrument therein, shall be likewise reputed an innovator in the government, and a capital enemy to this kingdom and commonwealth. Thirdly, If any merchant, or other person whatsoever, shall voluntarily yield or pay the said subsidies of tonnage and poundage, not being granted by parliament, he shall likewise be reputed a betrayer of the liberty of England, and an enemy to the same."

After passing these protestations the house rose\*.

The King having heard that they had continued to sit, notwithstanding his command for the adjournment, sent a messenger for the serjeant, with his mace: The house stayed the serjeant, locked the door, and deposited the key in the hands of one of their members. Not only this messenger, but Maxwell, the usher of the black rod, having been denied entrance, Charles grew into a rage, and directed the captain of the pensioners and guards to force the door. The mischief which this intended violence might have occasioned, was prevented by the sudden rising of the house, which was adjourned to the tenth<sup>3</sup> March. In the intermediate space, Denzil Hollis, Esq. Sir Miles Hobart, Sir John Elliot, Sir Peter Hayman, John Selden, William Coriton, Walter Long, William Strode, and Ben-

\* On the close of every one of these protestations, the house gave a loud applause. *Saunderson*, p. 131. *Parl. Hist.* vol. VIII. p. 332.



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Imprison-  
ment of se-  
veral mem-  
bers.  
Rym. Fœd.  
vol. XIX.  
p. 64.

jamin Valentine, Esqrs. were ordered to appear before the council. Mr. Holles, Sir John Elliot, Mr. Coriton, and Mr. Valentine, attended; but refusing to answer out of parliament, they were committed close prisoners to the Tower. Warrants were at the same time issued for apprehending the rest, and for sealing up their studies\*.

\* The following are the interrogatories and answers which passed on this occasion at the council-board.

Mr. Holles was asked, why he, contrary to his former use, did that morning when the tumult was in the lower house of parliament, place himself above divers of the privy-counsellors by the chair? He answered, that he at some other times as well as then seated himself in that place; and as for his sitting above the privy-counsellors, he took it to be his due in any place whatsoever, unless at the council-board; that he came into the house with zeal to do his majesty service; yet finding his majesty was now offended with him, he humbly desired, that he might rather be the subject of his mercy than his power. You mean rather of his majesty's mercy than his justice, answered the lord-treasurer. I say, of his majesty's power, replied Mr. Holles.

Sir John Elliot was questioned, whether he had not spoken such and such words in the lower house of parliament? and shewed unto the said house such and such a paper? He answered, that whatsoever was said or done by him in that place, and at that time, was performed by him as a public man, and a member of that house; that he was, and always would be, ready to give an account of his sayings and doings in that place, whensoever he should be called unto it by that house; where, as he took it, he was only to be questioned.

Sir Miles Hobart being interrogated concerning his demeanor in the lower house of parliament, and for shutting the door? answered, that he desired to know by what warrant he was examined to give an account in that place of his actions in parliament, being a member. He believed it was a course without a precedent. That no council nor commission could take notice of any thing done in parliament, but a parliament itself. Nevertheless, he would not stick to confess, that it was he who shut the door that day, and when he had locked the door, he put the key in his pocket; and he did it because the house demanded it.

Sir Peter Hayman was asked, why he reproved the speaker so sharply? He answered, because he was the speaker, and

On the tenth of March the King came to the house of Lords, where, without the ceremony of calling the Commons to the bar, he dissolved the parliament\*. In the speech he made on this occasion, he called the party in the opposition vipers; bestowed great praises on his own adherents, and particularly on the house of Lords, whom he commended for a dutiful demeanor. Indeed, the behavior of this body had been so pacific and inoffensive, that in the whole course of this session, during the spirited exertions of the Commons, their proceedings had been wholly confined to the framing a petition, concerning the old grievances of precedency to Scotch and Irish titles. This, they alleged, tended not only to the disservice and prejudice of his majesty, but his realms. Charles sent a civil denial to the petition; and these important pretensions continued yet undetermined.

Anno 1628.  
Journals of  
Lords, MSS.

Dissolution  
of parlia-  
ment.

Parl. Hist.  
vol. VIII.  
p. 250, &  
seq.  
Journals of  
Lords.

Among the animated measures of the lower house which dignify the proceedings of this session,

so the servant of the house, and one who ought to have applied himself to the command of the house; he did it with the more freedom and detestation, because he was his countryman; but yet should have done it to any other man who in the same kind should have deserved it as he did. On being farther demanded, what he would have done himself on being speaker, and commanded by the King to deliver such a message to the house? he answered, he would have thrown himself at his majesty's feet, and having given his majesty to understand that, in respect of his office, he was the most improper and unfit person of any to deliver such a message; he would have most humbly supplicated his majesty to have elected some other to have performed that part.

The parliament was not dissolved when these members were committed prisoners to the Tower. *Parl. Hist.* vol. VIII. p. 354, & seq. *Rushworth.*

\* No acts passed this session. A bill to enlarge the liberty of hearing the word of God was among those which went through the lower house.



Anno 1628. the warm debates the Commons had entered into on those innovations in the doctrines and forms of religion which had been introduced by Laud, Neile, Manwaring, and other bigoted priests, has been severely censured by sensible and candid writers. Had this circumstance been examined with that accuracy which the importance of it demands, these active patriots, who, to serve the best purposes, metamorphosed themselves into mere gownmen, would not only have been justified from acting on the narrow principles of religious bigotry, but would, from this exertion of their theological talents, appear possessed of an essential qualification necessary to form able legislators. Superstition, that weakness inseparable from the mind of man, has, from the first period of recorded time, been the quality the most fatally instrumental in degrading his nature to an abject, yet willing dependence, on the creature of his own rank ; and, overturning divine and moral law, has fixed an acknowledged inferiority where God has marked equality. Every established form of worship has, for these reasons, been subordinate to the purposes of policy ; and the engine religion been used with never-failing success to enslave the many to the few, and to fix on the firm basis of conscience, tyrannies irreconcilable to the wisdom of God, the dignity of human nature, and the welfare of mankind. Modes of faith powerfully operate on every government ; and the ecclesiastical constitution of a country has an irresistible influence on the political. We must consider, therefore, these illustrious patriots as combating errors, which, however trivial they may appear on a slight view, yet carried with them alarming consequences to Liberty. The essential points of faith in Arminianism or Puritanism had

in them nothing repugnant to the freedom of the English constitution; but the followers of the former were studiously bent to exalt the power of churchmen, and were wedded to those forms and ceremonies which degrade the pure spirit of religion into an idolatrous worship of the objects of sense; and convert that contemplation of the Creator, which elevates, refines and enlarges the human mind, into an implicit subjection to the interested opinions of men. In these respects, the innovations which the Arminians were daily making in the religious worship, was a proper object of parliamentary enquiry; and the discipline of the church was in its consequences too important to be trusted to the direction of a prince who had, like Charles, evidently manifested an inclination to exalt the sovereignty, not only beyond the spirit, but the forms of the constitution. In the first progress of the Reformation, those monarchies which had adopted the speculative doctrine of the reformed churches, retained a great deal of that pomp of worship essential to the Popish superstition, and agreeable to the pampered senses of princes: neither had they relinquished subordination, nor that ecclesiastical servitude, that resignation of private judgment, which is so favorable to civil tyranny. This was the state of church-government in England after the Reformation had taken place; and, as I have elsewhere observed, it strengthened the tyranny of the crown, by flinging into the scale of regal power that absolute and unlimited jurisdiction which had been wrested from the bishop of Rome.

Those refugees who had taken shelter in the Low-countries from the terrors of Mary's persecuting spirit, brought with them, on their return to England at the accession of Elizabeth, more en-



Anno 1628.

larged and independent notions than were agreeable to the views of this arbitrary princess; and she made use of that confidence the Protestants placed in her, and their fears of Popery, to erect anew the court of High-commission. In the thirty-fifth year of her reign, she so entirely mastered a pusillanimous parliament as to get an act passed, that all persons above the age of sixteen, who were absent from church a month, or who by word or writing declared their sentiments against the established religion, should be imprisoned till they made an open declaration of their conformity. This if they refused during three months, they were to abjure the realm; and if they either refused such abjurations, or staid in England beyond the time limited, they were to suffer as felons, without benefit of clergy. Thus she involved the Romanists and the Dissenters under the title of Recusants.

The natural good sense of the people of England, strengthened by an increase of knowledge, could not long languish under this diabolical tyranny, without seeking a remedy from the powers of the constitution: and in James's first parliament, the lower house passed a bill against the establishment of any ecclesiastical canons without consent of Lords and Commons. The higher house, more open to James's cajolements, rejected the bill. Notwithstanding this discouragement, the active vigilant spirit of the Commons exerted itself during the reign of this prince in such a vigorous opposition to the spiritual jurisdiction of the crown, that this exertion, with the mild conduct of Abbot, and several other rational and amiable prelates, enabled men openly to assert the natural right of exercising their reason. The literary disputes this occasioned brought over great numbers to the cause of Freedom. Charles and his priesthood  
endeavored

endeavored to restrain the subjects in that liberty they had exercised during the reign of James, and demanded a rigid conformity to ceremonies which had been long lain aside, and which were at this time peculiarly obnoxious to the religious opinions of the greatest part of the nation.

It was to these pretences that the Commons in this session of parliament opposed themselves, with the joint force of reason and eloquence; and shewed that the ecclesiastical authority Charles claimed, the use of which he had already given a disagreeable specimen of, had been all granted by parliament; that it must be subordinate to the power which created it, and the abuse of it liable to be corrected, and farther limited, by the after-resolutions of that assembly\*. The contempt which the abbettors of tyranny affected to shew for the house of Commons, had irritated this illustrious assembly, in several instances, into an undue ex-

\* The Commons in this session declared, that the articles of Lambeth were the present established doctrine of the church of England: These were settled by the archbishop of Canterbury, and other bishops and divines, assembled at Lambeth in 1595, on the following occasion. Calvin's opinions of predestination, grace, and perseverance, were then received as the only true orthodox doctrine, and so maintained in the schools of Cambridge, till Peter Baro, a Frenchman taught in his public lectures a contrary persuasion. He was complained of by the heads of the university unto Whitgift, the archbishop of Canterbury. He, assembling at Lambeth with Fletcher bishop of London, and Vaughan elect of Bangor, agreed on nine articles to be sent to Cambridge to compose the controversies. Matthew Hutton, archbishop of York, afterwards assented to these articles; but the jealous tenacious Elizabeth was so offended with the prelates for not calling in her authority, that she threatened to attaint them all of a premunire; and commanded Whitgift to call in and suppress the articles. They were produced by Dr. Reynolds in the conference at Hampton-Court, who styled them the Nine Assertions Orthodoxall. *Sanderfon's Life of Charles*, p. 128, & seq. *Heylin's Life of Laud*, p. 204, & seq.



Anno 1628. ertion of their authority: They censured Lewis, Witherington, and one Burgefs, a priest, for trifling verbal offences \*.

Journ. Com.  
vol. I. p. 924.  
Parl. Hist.  
vol. VIII.  
p. 300.

Sir John Eppefly, a member of the Commons, desired leave to answer a complaint against him in the higher house. Mr. Selden objected, that such a concession would affect the privilege of the Commons; that until the eighteenth of king James there had never been such a precedent †. The chancellor of the duchy and secretary Cook, though two consummate courtiers, seconded Mr. Selden's motion. Secretary Cook said, "I am as careful to maintain a good correspondency with the Lords as any man; but connivancy in this kind may overthrow the fundamental rights and privileges of the house: Let it therefore be seriously considered of; for this not only concerneth the right of this house, but the liberty of the whole commonwealth." The result of the debate was, that Sir John Eppefly should not have leave to answer.

The Commons took into consideration a petition against lord Lambert, a member of their house; who being a colonel, had imposed four-pence on every foldier towards his officers charges. The petitioner refusing to pay, was first set in the stocks, and after, by the lord Lambert, committed to a

\* These kind of offences are seldom proved by undoubted testimony; and, if they are in themselves criminal, are little formidable to just authority and upright government; since the multitude will be determined in favor of that which contributes to their own happiness, and not biassed by the petulant opinions of a few prejudiced or ill-meaning citizens. There is not a more certain mark of an ill-designing or impotent administration, than attempts to restrain the liberty of speaking or writing. Virtue in high places is sure to gain the universal plaudit of mankind.

† The case which Mr. Selden refers to is the trial of Sir. Giles Mompeffon, a member of the house of Commons.

public

public prison. Among the number of complaints which were brought before the Commons this session, one was preferred against the lord-deputy of Ireland and others, for appropriating the estate of the petitioner to their own uses \*.

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Journals of  
Commons,  
vol. I. p. 931.

\* The following black transaction will serve as a specimen of the kind of barbarity and injustice practised at this time in the kingdom of Ireland. Sir Richard Graham, an officer in the army, got possession of part of the lands of Phelim Mac Pheagh Byrne, lord of the Byrne's territory. On commissioners having been appointed by James to examine into this affair, Graham put a stop to their proceedings by undertaking to prove that the crown was entitled to the lands; and a commission was easily obtained, which empowered him, and others in his interest, to enquire into the said pretended title. Sir William Parsons got the lord-deputy's warrant to put him in possession of part of the lands, and sued Bryan, the son of Phelim, in the Exchequer for those of which he still retained the possession. Bryan maintaining his right, he and his brother, on the information of suborned witnesses, were, on March 13, 1623, committed close prisoners to Dublin-castle. One of these having refused to be an evidence, was cruelly tortured till he consented to accuse the two brothers. On the information of these witnesses, two bills were preferred against them. Two several grand-juries, not finding the bills, were prosecuted in the Star-chamber, and fined. On king Charles's sending an order to the lord-deputy to pass the lands to Phelim and his son, a new prosecution was set on foot. The two brothers were committed close prisoners to the Castle of Dublin, loaded with irons, without any diet from the crown, or leave for any friend to visit and relieve them. The whole family was involved in one common accusation of keeping company with, and relieving Marrogh Baccogh Kevenagh, who had been engaged in a rebellion. Eight men who had incurred the penalty of the law, were the witnesses. A grand jury, consisting of men interested in the prosecution, was impannelled to try Phelim and his family. They found the bill; yet other witnesses were necessary to the trial of the parties: to obtain these very illegal powers were exerted. People were tried and condemned by martial law, at a time when the courts of justice were sitting: some of these were executed, and publickly declared that they came to that fate because they could not accuse Phelim and his sons. The friends of the persecuted gentlemen made application in their behalf to the king and council in England: the



## C H A P. II.

*The King's declaration.—Proclamation.—Proceedings against the members of parliament.—Death and character of Sir John Elliot.—Peace with France.—Peace with Spain.—English consul insulted.—Tonnage and poundage levied with rigor.—Affairs of Ireland.—Measures to advance the hierarchy.—Persecution of ministers.—Leighton's cruel usage.—Innovations in religious ceremonies.—Acts of power.—Impositions and monopolies.—Affairs of Germany.—Proclamations.—Acts of power.*

Anno 1628.

Laud's Diary in the Breviate of his Life, by Prynne, p. 15.

**T**HE violence used to the house of Commons, and the commitment of the members during the sitting of parliament, were outrages resulting from the determinations taken previous to its meeting, by the interested individuals who composed the cabinet and privy councils. Of this noxious tribe, Laud, Neile, and Weston, the treasurer, had most to dread from the ensuing session. Laud in his Diary tells us, that the parliament broken up on the tenth of March labored his ruin. Weston was parti-

the chief of these friends who thus interposed was Sir Francis Annesly, afterwards Lord Mountnorris. And this is the ground of the imputation laid upon him by Clarendon, of being an enemy to the deputies of Ireland. A commission was directed to the lord-primate of Ireland, the lord-chancellor, the arch-bishop of Dublin, the lord-chief-justice, and Sir Arthur Savage, who taking the depositions of a great number of witnesses, the truth of the above-mentioned circumstances fully appeared. This restored the gentlemen to their liberty, but not to their estates; a considerable part whereof had been, during their imprisonment, passed to Sir William Parsons, by a patent dated the fourth of August, 4 Car. *Carte's Hist. of the Life of James, Duke of Ormond.* fol. 1736. p. 27, & seq.

cularly

cularly marked by Sir John Elliot, as the object of an intended prosecution. It is said that the King, as he was disrobing after the dissolution of the parliament, with much passion vowed, that he would never put on those robes again. The court-parasites every where declaimed against the respectable house of Commons, as an assembly of pragmatistical, factious demagogues; and the noble sentiments of Liberty, which had animated their proceedings, were not at this time so generally diffused as to affect the public with a consternation equal to their imminent danger, in being exposed to the unrestrained power of a projecting wicked ministry. It is affirmed, that the courtiers at first were successful in their endeavors to make the vulgar believe the Commons were the aggressors, after the King had passed the Petition of Right. Notwithstanding this discouragement, together with the loss of that active patriot, Sir Edward Coke, through disability from age and infirmities, and Sir Thomas Wentworth, through the means of bribery, the opposition kept firm. They were composed of the greatest men England ever produced; well founded in their principles; possessed of almost all the polite learning which was in the nation; intrepid in their conduct, from a conviction of the goodness of their cause; united in their counsels, from the sincerity of their intentions; and not to be diverted by any difficulties from pursuing the laudable end they aimed at.

Some people of the lower sort, warm in the interest of the party, a few days after the dissolution of the parliament, threw two papers into the dean of St. Paul's yard; one against Laud, to this effect: "Laud, look to thyself; be assured thy life is sought, as thou art the fountain of all wicked-

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Guth. p.  
896.Rushworth,  
vol. I. p.  
662.



Anno 1628. wickedness. Repent of thy monstrous sins before thou be taken out of the world; and assure thyself, neither God nor the world can endure so vile a counsellor or whisperer to live." The other, against the treasurer Weston, was to the same purpose.

The King's  
declaration.

Charles attempted to vindicate to the public his illegal violent conduct in a declaration, setting forth his reasons for dissolving the parliament. They were frivolous and weak, full of assertions of his upright intentions, without reconciling one of his measures to the principles of the constitution, or the Petition of Right; replete with abusive accusations of the patriot party in the lower house; whilst the matter of the accusation shews, that the grievances of the nation could no otherwise be redressed than by the spirited exertion which it condemns. He acknowledges, that tonnage and poundage was ever enjoyed by the authority of parliament, and therefore it was agreeable to his kingly honor to take it without the authority of parliament. The Commons were charged with not obeying the adjournment immediately, and the King's power in that point supposed to be incontestable\*. There is no mention of the immediate cause of their non-compliance; viz. a manifest breach of the freedom of parliament, in the speaker's refusing, by the King's express command, to put the question. The declaration finishes with an assurance of good government; but that to depend on the King, and not in the strength, vigor, and goodness of the

\* The power of adjourning, though it had not been formerly disputed, was a point of privilege which the Commons had by no means given up to the crown: their right had been asserted by several of the popular members, and never contradicted by a resolution of the house.

laws, to oppose a bad one. If Charles's most Anno 1628. inveterate enemy had penned an acrimonious libel on his administration, it could not more fully have served the purpose of sowing the seeds of discontent, jealousy, and resentment, than this impolitic endeavor to reconcile the minds of the people to his tyrannical pretensions.

The Commons not having been called up on the dissolution of the parliament, a proclamation was issued to give notice to all the lords spiritual and temporal, knights, citizens, burgesses, and others concerned in the parliament, that they might depart about their needful affairs, without attending any longer in London. The declaration setting forth the reasons for dissolving the parliament had an effect so different from its intended purpose, that the people murmured highly for another; and said, if there was not one presently called all things would be unsettled, and out of order. On this a proclamation was issued for suppressing such discourses, that it was presumption in any to prescribe any time to his majesty for parliaments, the calling, continuing, and dissolving them, being always in the King's own power\*; that his majesty will be more inclinable to meet his parliament again, when his people shall see more clearly into his intentions and actions; when such as have bred this interruption shall receive their condign punishment, and those who are mis-led by them, and such ill reports as are raised upon this occasion, shall come to a better understanding of his majesty and themselves†.

Rushworth,  
vol. I. p.  
660.

Rushworth,  
vol. II. p. 3.

Proclama-  
tion.

\* Never was there a more barefaced act of tyranny than this prohibition, supported by an assertion so notoriously false; the people, by two statutes then in force, having a right to demand an annual parliament.

\* The courtiers were so emboldened by the King's openly avowing



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Charles was now determined to govern entirely by his council, and to raise money by his prerogative. To justify his proceedings against the imprisoned and absconded members, the judges

Anno 1629.

were assembled on the twenty-fifth of April, and certain resolutions \* extorted from them, calcu-

avowing an intention to call no parliaments till the people were rendered submissive to his will, that one Atkinson having sued a servant of the King, the earl of Montgomery (the lord-chamberlain), committed him for having done it without his leave. Atkinson was delivered on his Habeas Corpus; and that very day Montgomery again committed him, in contempt of the court. Hyde denied to grant a warrant for another Habeas Corpus, but it was obtained from the rest of the judges. Before its return, Atkinson was discharged from prison. *Whitlock*, p. 13.

\* The questions put by the attorney-general, and dictated by Laud, with the resolutions of the judges.

To the question, “ Whether if any subject hath received probable information of any treason, or treacherous attempt against the King and state, that subject ought not to make known to the King, or his majesty’s commissioners, when thereunto he shall be required, what information he shall receive, and the grounds thereof, to the end that the King, being truly informed, may prevent the danger? And if the said subject in such case shall refuse to be examined, or to answer the questions which shall be farther demanded of him, for farther enquiry and discovery of the truth, whether it be not a high contempt in him, punishable in the Star chamber, as an offence against the general justice of the kingdom?”

The judges answered, that it was an offence punishable as aforesaid; so that it did not concern himself, but another, nor draw him to danger of treason or contempt by his answer.

“ Whether it be a good answer or excuse, being thus interrogated, to say, that he was a parliament-man when he received this information, and that he spake thereof in the parliament-house; and therefore, the parliament being now ended, he refused to answer to any such questions but in the parliament-house?”

The judges gave a private answer to Mr. Attorney, that such an excuse was in nature of a plea, and not an error of judgment; therefore not punishable till over-ruled.

“ Whether

lated not only to justify the proceedings of the ministry, but to awe any future parliament from disputing the will of the court. Judge Whitlock, notwithstanding he gave his assent with the rest of his brethren, said, if Laud went on to get previous determinations to justify all his arbitrary measures, he would kindle a flame in the nation. Chambers, for the words he had spoken at the council-board, that the merchants in England were more screwed up than in Turkey, was fined in the Star-chamber two thousand pounds, and to acknowledge his offences at the council-board, the Star-chamber bar, and the Exchange.

Anno 1629.

Whitlock,  
p. 13.Rushworth,  
vol. I. p.  
670, & seq.

“ Whether a parliament-man, committing an offence against the King or council, not in a parliament-way, might, after the parliament ended, be punished ?”

The judges answered, he might, if he be not punished for it in parliament. They agreed, that he could not regularly be compelled, out of parliament, to answer things done in parliament in a parliamentary course; but it was otherwise where things were done exorbitantly, for those were not the acts of a court.

“ Whether if one parliament-man alone should resolve, or two or three shall covertly conspire, to raise false slanders and rumors against the lords of the council and judges, not with intent to question them in a legal course, or in a parliamentary way, but to blast them, and to bring them to hatred of the people, and the government into contempt, he be punishable in the Star-chamber after the parliament be ended ?”

The judges answered, that the same was punishable out of parliament, as an offence exorbitant committed in parliament, beyond the office, and besides the duty, of a parliament-man.

To the following questions put by Mr. Attorney, “ Whether if a parliament-man, by way of digression, and not upon any occasion arising concerning the same in parliament, shall say, the lords of the council and the judges had agreed to trample upon the liberty of the subject, and the privilege of parliament, he were punishable or not ?” the judges desired to be spared to make any answer, because it concerned themselves in particular. *Rushworth*, vol. I. p. 662, & seq.



Anno 1629. Notwithstanding his plea that these words were only spoken in the presence of the privy-council, and not abroad to stir up discord among the people, and with no other view than to introduce his just complaints against the inferior officers, the fine was thought very moderate by this court: some of the members voted it to be three thousand pounds; of this number was bishop Laud. When the draught of the submission was read to Chambers, he thus subscribed it: "All the abovesaid contents and submissions, I Richard Chambers, do utterly abhor and detest, as most unjust and false; and never till death will acknowledge any part thereof\*." Chambers put in a plea in the court of Exchequer against paying the fine; that the said fine was imposed by the King and the council, and not by a legal judgment of his peers, nor by the laws of the land, nor according to the manner of his offence, nor saving his merchandize, &c. To this plea he annexed a petition to the lord-chief-baron, and the other barons, humbly desiring the filing the plea, with other reasons, in the manner of a motion at the bar, because counsel would not move, plead, nor set hand to it. On the representation of Mr. Attorney, that this plea was frivolous, insufficient, and derogatory to the honor and jurisdiction of the Star-chamber, the court over-ruled it, and the petitioner was imprisoned six years for not submitting to the sentence of the court.

\* The substance of the submission was as follows: That Richard Chambers having been convented before the lords and others of his majesty's most honorable privy-council-board, did then and there, in insolent, contemptuous, and seditious manner, falsely and maliciously say and affirm, &c. *Rushworth*, vol. I. p. 672.

On Easter-Term Mr. Strode and Mr. Long, two of the imprisoned members, brought their Habeas Corpus to be admitted to bail. The judges, intimidated by a warrant the King had sent under his own hand for their detention, remanded them \*; but before the next term they

Anno 1629;  
Proceedings  
against the  
members of  
parliament.

Whitlock,  
p. 13.

\* Mr. Ask of the Inner-Temple was of counsel for Mr. Strode, and Mr. Mason of Lincoln's-Inn for Mr. Long. Mr. Long argued, that the words in the warrant, " notable contempts against our government, and stirring up sedition against us," were too indefinite and general for the prisoners to be remanded on such a return; that there were in the law many contempts of different natures, which had different degrees of punishment: every contempt made to the King was notable against our government; and that it appeared not to the court of what nature the contempts mentioned in the King's warrants were; that besides, the King cannot imprison any man, because no action of false imprisonment lies against the King; that there were no such words in the law-books as Sedition, but taken adjectively, as seditious books, seditious news, &c.; that in the statute of the first and second of Philip and Mary, the penalty imposed on such sedition is but a fine. Here Mr. Ask quoted law-cases, to shew that a general accusation of a mutinous and seditious man was not adjudged actionable. Mr. Mason said, he would not argue the first warrant committed by the King and privy-council, because the insufficiency of such a return was claimed as an ancient right pertaining to the subject in the Petition of Right, whereto the King had given his consent. For the second warrant, for stirring up sedition against us and our government: Sedition is not any determined offence within our law. Our law gives definitions and descriptions of other offences; to wit, of treason, murder, felony, &c. but there is no crime in our law called Sedition. Before the statute of Ed. III. cap. 2. it was not clear enough what was treason, what not; by which statute it is declared what shall be said treason; and that the judge shall not declare any thing to be treason which is not contained within the said statute; and that statute speaks not of sedition; nor the statute of the first of Hen. IV. cap. 10. which makes some things treason which are not contained within the said statute of 25 Ed. III. The statute of 1 Ed. VI. cap. 12. takes away all intervening statutes which declared new treasons; and the said act declares other things to be treason, but



Anno 1629.  
Rushworth,  
vol. I. p.  
665. & seq.

sent a letter to the King, in which they represented, that by their oaths they were to bail

mentions not Sedition. Sedition is the quality of an offence, and is oftentimes taken adverbially or adjectively. Here Mr. Mason quoted law-cases to prove, that sedition was never taken as a substantive; and alledged, that the present case was clearly within the Petition of Right, in which Magna Charter and the statutes of the 25 and 28 Ed. III. were recited. The grievance there was, that divers have been imprisoned without any cause shewn to which they might make answer according to law; and upon this return nothing appeared to be objected to which he might make answer. It appears not what that act which is called Sedition is. This is the grief intended to be remedied by that statute. To this he cannot answer according to law: It appears not whether this were a seditious act, trespass, or slander, or what it was at all. Serjeant Barclay argued for the King, that the return was sufficient in law to detain them in prison; that the case was not so general as it had been made, but particular upon this particular return. To the objection, that the commitment was by the lords of the privy-council, and the signification of the cause by the King—That the lords of the council do it by the command of the King, and they only pursued his command. To the objection, that Markham said to king Edward IV. that he cannot arrest a man for suspicion of treason or felony, because if he do wrong the party cannot have his action—That the book there is to be understood of a wrongful arrest, for there is spoken of an action of false imprisonment; and a wrongful arrest cannot be made by the King. To the objection, that the return was general and uncertain—That the counsel of the other side had divided the words of the return. Notable was a word observable in the law; and that though sedition in itself might be a general offence, yet sedition against us and our government made it particular; that there were many writs more uncertain than this return, and yet good; that the writ concerning the taking an apostate was general, yet there were several sorts of apostacies; that on the writ concerning the remove of lepers the words were general, yet there were two kinds of lepers. To the objection, that by the statute of 25 Ed. III. the parliament ought only to determine what was treason, what not—That upon the said statute the positive law had always made explication and exposition. It was fit to restrain the prisoners of their liberty, that the commonwealth might not be damaged. It was lawful to pull down a house to prevent

the prisoners; but thought fit, before they did Anno 1629. it, or published their opinions therein, to inform his majesty thereof, and humbly to advise him, as had been done by his noble progenitors in the like case, to send a direction to his justices of the bench to bail the prisoners. Charles told the judges, that he was dissatisfied with the contents of their letter, and ordered them to take no step in bailing the prisoners till they had advised with the judges of the other benches. During this delay, the prisoners were removed into other prisons; the King sending a letter to the judges to acquaint them, that the removal was occasioned by their insolent carriage at the bar of the Star-chamber, and at the bar of the King's Bench\*.

vent the spreading mischief of fire. It was lawful to restrain a furious man. *Rusworth*, vol. I. *Appendix*, p. 18. & seq.

\* The first day of Trinity-Term, Mr. Selden having been brought on an Habeas Corpus to the bar of the King's Bench, Mr. Littleton argued, that the cause of the return being the same which had been brought with the other prisoners, it was insufficient, and against the Petition of Right; that in the warrant of the King, as certified by the return, there was not a sufficient cause for detaining the prisoner. For the first part of it, "For notable contempts by him committed against ourself and our government." For contempts, all contempts are against the King mediately or immediately, and against his government. Notable is all one with notorious and manifest, as appears by the statute of Westminster 1, cap. 15, and 26 Ed. III. 71. Notable is but an emphatical expression of the nature of the thing, and alters it not. "Against us:" All riots, routs, batteries, and trespasses, are against us, and against our crown and dignity. Contempt against our court of justice is a contempt against us. But if the return were, that he was committed for a contempt made in Chancery, the party shall be bailed, as it was resolved in this court in Michael Apsley's case, and in Ruswell's case, 13 Jac. Mr. Littleton quoted a good many statutes and law-cases to prove, that sedition was not an offence of itself, but the aggravation of an offence; and no indictment was ever seen



Anno 1629.

It was not till Michaelmas-Term following, that Charles was brought to consent that the pri-

of sedition singly by itself on the entire return. He said, the King joined sedition with notable contempts, mentioned in the first part of the return, so that it made it but a contempt. Here Mr. Littleton quoted the case of Peter Ruffel, in the 9 Ed. III. who was bailed on a return of having committed divers seditions against the lord the king. "It has been affirmed, said Mr. Littleton, that there can be no conviction as this case is, therefore there ought to be coercive power to restrain the prisoners. This is strange news to me, that there shall be an offence for which a man cannot be convicted. If there be no conviction, it hence follows there can be no offence; and if there be no offence, there ought by consequence to be no punishment. The case of the 14 Henry VII. 8. hath been objected, that a justice of peace may commit rioters without bail. I confess it; for this is by force of a statute which ordains it. It hath been objected, that if a house be on fire, it is lawful to pull down the neighbor's house for the prevention of farther mischief: and the cases of 22 Ass. and 22 Ed. IV. that every man may justify the coercion of a madman. I answer, that those cases are true, for of necessity, and no other evasion: but here bail is proffered, which is body for body. Fire is swift, and cannot be punished, and no caution can be obtained thereof. But observe the true inference and consequence of this argument: If my house be on fire, my neighbor's house must be pulled down: Mr. Selden is seditious; *ergo*, Mr. Herbert, his neighbor, must be imprisoned. It hath been objected, that the case is out of the Petition of Right, because in this return there is a cause shewn; but the grievance whereupon the Petition of Right was framed was where no cause was returned. It is true that the grievance goes no farther but where no cause was returned, for that was the grievance at that time; but the words of the Petition of Right are farther, without being charged with any thing to which they might make answer by the law, which implies, that such cause ought to be contained in the return, which being put into an indictment, the party may have his answer thereto. It was objected, that the return shall not be construed and expounded by fractions. I answer that we need not make such an exposition, for the joint construction thereof makes more for us than the several, as is shewn before. It has been objected, that a general return is sufficient, and that it need not have terms of art in it, as an indictment ought to have. For answer,

soners should be bailed, provided they gave security for their good behavior. This was a point

swer, I confess it; but I affirm, as above, that a return ought to be so particular that the nature of the offence appear out of it: and it is not to be compared to general writs, *Apostata capiendo*, *Idiota examinando*, *Lepros amovendo*, and the like; for those writs are good enough, because they contain the very matter. It hath been objected, out of 30 Ass. p. 19. that the King would have one drawn or hanged for bringing into England the bulls of the Pope; but the book answers itself, for he was not drawn or hanged. The statute of Westminster was objected; but as often as that statute is objected, I will always cry out, The Petition of Right, the Petition of Right, as the king of France cried out nothing but France, France, when all the several dominions of the king of Spain were objected to him. I will remember one case, which perhaps may be objected, and so conclude: 11 Rich. II. Parliament-Roll 14. in the printed statute, cap. 3. and 5. where it appears, that divers questions were propounded by the King to Tresilian and Bealknap, the two chief-justices, and to the other justices; one of which questions was, How they are to be punished who resist the King in exercising his royal power, &c. ? The answer of the judges was, *una voce*, that they are to be punished as traitors; and 2 Rich. II. cap. 21. this opinion was confirmed; but afterward, in the 1 Hen. IV. cap. 3. and 4. and 1 Hen. IV. in the Parl. Rolls, numb. 66. and 67. the judges being questioned for their opinion in parliament, they answered, that they were threatened and enforced to give it, and that they were, in truth, of the contrary opinion. Bealknap said, that he protested aforehand to the earl of Kent, that his opinion was always to the contrary. The parliament was not content with these excuses, and they were all adjudged traitors."

Sir Miles Hobart, Benjamin Valentine, Denzil Holles, Esqrs. were at the bar upon an Habeas Corpus directed to the several prisons, and their council was ready to have argued the case; but the same return being made for them as was made for Mr. Selden, they all agreed to rely upon the arguments which had been urged by Mr. Littleton.

Sir Robert Heath, the attorney-general, argued, that the return was good, and that the prisoners ought not to be bailed; that the first general warrant by command of the lord the king was in former times held a very good return, when due respect and reverence was given to government—but,



Anno 1629. of law in favor of the crown, which the judicious Mr. Selden, with a spirit truly magnanimous

*tempora mutantur*; that this return was not weakened by any latter opinion: for notwithstanding that, the first commitment of a man might be general; for should the true cause be revealed to the gaoler, the complices of the fact might escape: but when the cause was returned in court, more certainty was requisite; for then, as it had been objected, something ought to be expressed, to which the party might make answer, and to this purpose the Petition of Right had been much insisted on; but the law was not altered by it, but remained as it did before. Here Mr. Attorney ridiculously and reasonably asserted, that the King's declaration after the passing the Petition of Right, that he had granted no new, but only confirmed the ancient liberties of the subject, rendered it not effective in this case; and he should consider how the law was taken before the Petition. "It seems, said he, that there is such a crime contained in this return, which is a good cause for detaining the prisoner. It is true, that it was confidently urged in parliament in 3 Car. that general returns which were committed by the lord the King were not good, &c. and that those arguments remain as monuments on record in the upper house of parliament; but I will not admit them for law; but I will remember what was the opinion in former times." Here Mr. Attorney quoted Newton, and said, that the contrary opinion was grounded on Magna Charta, which was a general law, and literally had no sense to that purpose; that it was contrary to the usual practice in criminal cases, in which the imprisonment was always lawful until the trial, although made by a justice of peace or constable. Mr. Attorney quoted law-cases, and said, that there were innumerable precedents to this purpose; that it was the opinion of that court in 3 Car. that the law was not altered since, and he hoped the opinion of the judges was not altered. Mr. Attorney further argued, that sedition was a word well known in the law, and of dangerous consequence; that out of the statutes enacted against treason, it appeared there was a narrow difference between it and treason, if there was any at all. To the objection, that the gentlemen had been a long time imprisoned, and no proceeding against them—"It is well known, said Mr. Attorney, there have been some proceedings against them, and they declined them; and also, more than three months is requisite for the preparations of such proceedings; and the King intends to proceed against them in convenient time. If any injury be done  
to

refused to assent to, since giving bail for good behavior was a punishment, and implied an of- Anno 1629.

to the prisoners, they themselves are the cause of it, for not submitting themselves to the King. And for the instance which Mr. Littleton used, of the judges in the 2 Rich. II. although they suffered for their opinions given to the King, I desire that the time when their opinion was delivered may be considered, to wit, in the time of Rich. II. and the time when they suffered, to wit, in the time of Hen. IV. And it was the saying of a noble gentleman, the lord Egerton, that Bealknap suffered rather by the potency of his enemies, than the greatness of his offence. And yet it is to be confessed, they might have given better counsel: But there was no time to dispute the justness of their counsel, when the sword was in the hands of the conqueror. It hath been relied upon the resolution of all the justices in England in 34 Eliz. which resolution is now registered in the upper house of parliament, at the request of the Commons, in *tertio Caroli regis*; but I leave it to you, as that resolution shall sway your judgment. The said resolution is, that the cause ought to be certified in the generality or speciality: and here the general cause is certified at least, if the special be not so. Upon the whole matter, the bailment of these prisoners is left to your discretion; and I have shewn to you the discretion of your predecessors: and if any danger appear to you in their bailment, I am confident that ye will not bail them if any danger may ensue. But first you are to consult with the King; and he will shew you where the danger rests. Therefore, upon the whole matter, I pray that they may be remanded.

When the judges were ready to have delivered their opinions on the grand Habeas Corpus for Mr. Selden and others, the prisoners were not brought to the bar, according to the rule of the court: therefore proclamation was made for the keepers of the several prisons to bring in their prisoners. None of them appeared but the marshal of the King's Bench, who said that Mr. Strode, who has in his custody, was removed yesterday, and put in the Tower of London, by the King's own warrant. And so it was done with the other prisoners: each was removed out of his prison in which he was before. Notwithstanding this, it was prayed by the counsel of the prisoners, that the court would deliver their opinion for the matter in law. But the court refused to do that, because it was to no purpose; for the prisoners being absent, they could not be bailed, delivered, or remanded.

The last day of the term, a letter came to the court from the King



Anno 1629.

fence, which yet remained to be tried and proved \*. The rest of the prisoners, animated by Mr. Selden's example, determined to defend this constitutional point, at the expence of their personal liberties. On their refusal to find bail for their good behavior, they were remanded to the Tower, and an information lodged against them in the King's Bench for sedition and contempt; and against Mr. Long, for that he, being chosen sheriff of the county of Wilts, and by his oath to keep within his county, unless he had the King's licence to the contrary, yet he did come to parliament, and serve as a member there, and in the time of parliament resided out of his county †. All the parties under prosecution ex-

King himself, to inform the court concerning the reasons wherefore the prisoners were not suffered to come at the day appointed, for the resolutions of the judges; yet that Selden and Valentine should appear the next day. About three hours after, the judges received other letters, intimating that neither Selden nor Valentine should appear. *Rushworth*, vol. I. *Appendix*, p. 28, & *seq.* *Rushworth*, vol. I. p. 680, & *seq.*

\* The judges, to prevail with the prisoners to assent to this illegal demand, assured them, that one bail should suffice, and all should be written on one piece of parchment. They were every one so resolute in their denial, that when Ashley, the king's serjeant, offered his own bail for Mr. Holles, who had married his daughter and heiress, the court was obliged to reject it, because Mr. Holles refused to be bound in the obligation. *Baker's Chronicle*, p. 445. *Rushworth*, vol. I. p. 683.

† Mr. Long had been prosecuted for this offence in the Star-chamber. His plea there was, that the oath of a sheriff to reside in his county does not exempt him from obeying the King's command out of the county, when the king requires it; and that by the King's command in his highest capacity, he being chosen a member of parliament, was obliged, as well by the King's command, as by a trust reposed in him by his county, to serve as a member of parliament.

Mr. Long's counsel might have added, that the question had, in Sir Edward Coke's case, been determined in favor of the defendant; since on that patriot's having been made high-

sheriff

cepted to the jurisdiction of the court. This Anno 1629. exception in the case of Long was treated as a derogation of the jurisdiction of the court: He was sentenced to be committed to the Tower, there to remain during the King's pleasure, to pay a fine of two thousand marks to the King's use, and to make humble submission and acknowledgment of his offence, both in the court of Star-chamber and to the King, before his enlargement.

To the other exceptions against the jurisdiction of the court, notwithstanding the counsel for the prisoners had proved, that there never was a precedent of such offences having been punished in that court, where any plea was put in, the judges agreed, that the court had jurisdiction, though the offences were committed in parliament; and that the members imprisoned ought to answer\*. They

Rushworth,  
vol. I. Ap-  
pendix, p. 51.

Rushworth,  
vol. I. p. 626.  
& seq.

sheriff of Buckinghamshire to impede his serving his country in parliament, he had nevertheless been elected a member, and his election had been resolved to be good by the House of Commons.

It is said, that when Mr. Long's counsel pleaded antient records to exempt members of parliament from the jurisdiction of that court in matters concerning the parliament, bishop Harsnet replied, "Don't trouble us with moth-eaten precedents; we sit here not to be guided by precedents, but to make them."

\* The four judges were, the lord-chief-justice Hyde, Whitlock, Crooke, and Jones. Hyde gave an opinion, that offences committed in parliament might be punished out of parliament, and no court more proper for that purpose than the court of King's Bench. Jones argued, that the privilege of parliament did not hold in three cases: treason, felony, and in suit for the peace; and that this last was the case in question. To these arguments Whitlock added the following ridiculous distinction: That the present question was between private members of the House of Commons and the King, and not between the King and the parliament; that that which is done in parliament by the consent of all the house, shall

not



Anno 1629. still refusing to plead before the court, the following judgment was given against them upon a *Nihil Dicit* :

“ That every of the defendants shall be imprisoned during the King’s pleasure. Sir John Elliot to be imprisoned in the Tower of London, and the other defendants in other prisons.

“ That none of them shall be delivered out of prison, until he give security in this court for his good behavior, and have made submission and acknowledgment of his offence.

“ Sir John Elliot, inasmuch as we think him the greatest offender and ring-leader, shall pay to the King a fine of two thousand pounds; Mr. Holles a fine of two thousand marks; and Mr. Valentine, because he is of less ability than the rest, shall pay a fine of five hundred pounds \*.”

not be punished elsewhere; but if any private members put off the persons of judges, and cloath themselves in the persons of malefactors, they are seditious. Charles said of Whitlock, that he was a stout, wise, and a learned man, and one who knew what belonged to uphold magistrates and magistracy.

Justice Croke, as absurd as Whitlock, said, that all offences against the crown were to be punished in the court of King’s Bench. Indeed what was done in a parliamentary way could not be punished there; but what was done falsely and unlawfully could not be a parliamentary course, and therefore such offences were punishable out of parliament. *Whitlock*, p. 11.

\* Whitlock informs us, that about this time some constables, and other men of low condition, were committed by the council; and bringing their Habeas Corpus, were removed from pursuivant to pursuivant, and could have no benefit of the law. The proceedings of the High-commission court were carried so high, that one Huntly, a parson in Kent, having disobeyed an order to preach a visitation-sermon, was committed to prison by the High-commission court: the return on his Habeas Corpus being default in his canonical obedience, he was first bailed, and afterwards delivered upon this reason, because breach of canonical obedience is an offence punishable by the ordinary, by ecclesiastical censures, and not by the commissioners ecclesiastical, by fine and imprisonment.

Huntly

The imprisonment of these illustrious sufferers Anno 1629. was long, their treatment under confinement rigorous and cruel: they were denied the use of pen and ink, and, even in their sicknesses, all communication with their wives and families. Under these oppressions died Sir John Elliot. It is the peculiar duty of history to do justice to injured and aspersed virtue. The merits of Sir John Elliot demand a particular attention, as the first martyr to the pre-eminent cause of Liberty. It is, perhaps, the early exit of this undaunted patriot which has left his memory rather a prey to calumny, than distinguished by those strong lines of virtue which marked the real man. Notwithstanding His character. the pains monarchical writers have taken to

Huntly brought his action against the keeper, and some of the commissioners by name. The attorney-general moved, that the action might lay against the gaoler only, and not against any of the persons of the High-commission. The court ordered, that two of the commissioners should answer. Laud insinuated to the King, that it would much prejudice the authority of his High-commission court, if the judges of it were exposed to personal actions. Charles sent his advocate, Dr. Ryves, to the lord-chief-justice, requiring him to proceed no farther in the cause till he had spoken with him. On the receipt of the mandate, the judges came to a resolution, that a message which commanded an indefinite stay of a cause between party and party, and might stop the course of justice as long as the King would, did not stand with their oaths. They farther declared the doctor to be no fit messenger, all messages from the King to them, in causes relating to the administration of justice, being usually by the lord-keeper, or the attorney-general. On this, Charles sent for the judges, and laid an express command upon them, that they should not put the commissioners to answer. The general odium excited by the power which these ecclesiastical officers had assumed, changed the submissive dispositions of the judges: they stoutly replied to the King, "That they could not, without breach of their oaths, perform his commands." It was determined after at the council-table, that the judges had done their duty, and that the commissioners ought to answer. *Kenner's Complete History of England*, vol. III. p. 58. *Whitlock*, p. 12, 13.

wound



Anno 1629. wound his private character, they have never produced a single anecdote against him, grounded on any good historical proof. In his public life, he eminently appeared an independent agent for the people, a faithful trustee of that sacred charge committed to a representative by his constituents, an intrepid assertor of the privileges of parliament, and a zealous defender of the Liberty of the subject; determined in his opposition to the unconstitutional pretensions of the crown, and the arrogant and dangerous encroachments of favorites and ministers. By this steady manly conduct, he gained so much of the esteem and confidence of the public, that from the year 1618 to the year 1628 he was always elected a knight of his county, or a burgess for some borough therein, to serve in all parliaments. The enemies to his virtues would insinuate, that his spirited exertions in the cause of Liberty had no other source than private pique to Buckingham; but his animated conduct in the parliament succeeding the decease of that favorite, evidently confutes that assertion. He possessed a bold, spirited, and nervous elocution, a lively imagination, and a ready wit\*. He

Wood Atheneae Oxonienses, fol. ed. 1721, vol. I. P. 543.

Cornwall.

\* There is in the British Museum a very valuable MS. entitled, "The Monarchy of Man, a Treatise philosophical and moral, composed by Sir John Elliot," whilst a prisoner in the Tower. The same spirit of Liberty, the same just notions of government, animated the writer as animated the orator. After asserting, from Theodosius and other authorities, that kings are subject to laws, he observes, "It is their majesty, their honor, their exaltation, so to be: The reason is, that the law is the ground of all authority; all authority and rule dependant on the law." The following passage is a lively picture of the miserable servitude of the times in which Sir John Elliot lived, and under the tyranny of which he died, with the small prospect there then was that this country would ever attain to that glory and freedom which it has since enjoyed. "The question, whether laws have an influence on princes,

was a more forward leader of opposition than any of his cotemporaries, and the most daring champion for the public cause\*.

princes, is a question involved in difficulties, as lying within that mystery, the prerogative of kings, which is a point so tender it will hardly bear the mention: we may not handle it with roughness, lest it reflect new beams of terror on ourselves. If we turn our disquisition, and thus state it, What power the King has upon the laws? there is such a confluence of flattery conducing to our prejudice; such labor to make a monarchy unlimited, an absoluteness of government without rule; so much affection, or corruption rather, specified; such distortion and perversion of authorities to that end; learning made prostitute to fallacy; religion turned to policy; Heaven brought down to earth; light transformed to darkness; as to attempt against it is now to row against the tide, against the stream and current of these times to seek a passage unto truth. — To confute those who inculcate the doctrine of tyranny unto princes were not a task of hardness, if the danger did not exceed the trouble; but the infection of these times is incompatible with such labors, when scarce the least disease is curable." The treatise concludes with a panegyric on the independence of the mind: "The affections being composed, and the actions so directed, the perfection of our government, that *summum bonum* in philosophy, the *bonum publicum* in our policy, the true end and object of the Monarchy of Man." *Br. Museum MSS.* numb. 2228. This treatise contains 240 folio pages, fairly written, with this motto: *Deus nobis hæc otia fecit.*

\* Wood, in his History of Oxford-writers, tells us, that Sir John Elliot, after having studied three years at the university of Oxford, finished his education at the inns of court, and was there made a barrister. The study of the common law of England was, in these days, considered as a very necessary part of education for the men of fortune who aspired to the honor of serving their country in the important function of members of parliament. Modern education is on a very different plan: the tour of Europe succeeds the university, and completes the fine gentleman; whilst his attention to fashions, and to all the trifling parts of foreign manners, take place of the more drudging science of the law, the study of politics, and the constitution of his country. To this change, perhaps, may be justly ascribed part of those misfortunes which are iniquely imputed to the venality of the present times.

The



Anno 1629.

The forementioned severities practised on these gentlemen of resolved and stubborn virtues, were not the only endeavors used to break and disunite the party. Those eminent parliament-men who were of a pliant temper were all preferred: Sir Dudley Diggs was made master of the rolls, Noy was made the King's attorney \*, and Littleton his solicitor †.

Charles, wholly engaged in quelling the obstinacy of his English subjects, and settling on a firm basis his plan of arbitrary power, listened with pleasure to pacific proposals from the French court. Richlieu knew that both the English king and ministry were eager for peace; and though he had now entertained a project of diminishing the power of the house of Austria, and Lewis was on the point of being engaged in a war with Italy, yet he disdainfully rejected the mediation of the king of Denmark and the States-General, agreed to by Charles, and insisted that the Venetians should interpose their good offices between the two crowns. The articles of this treaty were trifling. The peace was concluded at Susa, on the fourteenth of April, and published on the twentieth of May, before Privas, a Protestant town, at this time besieged by the French king. On the same day Privas was summoned to surrender: it held out till the twenty-ninth.

Peace with  
France.

\* Sir Robert Heath, the late attorney-general, was preferred to a judge's place, in the room of Sir John Walter, who was discharged from his service because he did not give a satisfactory answer to the queries concerning members of parliament. *Whilock*, p. 16.

† It is said, that Sir John Elliot had been tampered with, but that he was found proof against all temptation. *Rapin*, note, vol. X. p. 263.

The

The first fruits of the new-sworn amity between the two monarchs was the importation of twelve capuchin friars to serve in the queen's chapel, and the release of certain priests and recusants, delivered to the French ambassador Chateauneuf, who came to receive Charles's ratification and oaths. The next measure taken by the ministry, was to enter into a treaty of peace with Spain. The overture was made by Rubens, the Flemish painter, at the instance of the archduchess Eugenia. Don Carlos de Colonna was sent from the court of Madrid into England to conclude the negociation. The views of Spain were at this time turned towards Italy and France; and the great object of the politics of the king of Spain's favorite, Olivares, was to humble Richlieu. Charles eagerly embraced a proposal so propitious to the designs he had formed against his own subjects. The articles of the peace were signed at Madrid, the fifth of November, 1630. They only confirmed former treaties, and were equally disgraceful as were the articles of the lately-concluded treaty with France. In the one, no stipulations were demanded in favor of the Hugonots, who, contrary to the most solemn promises of protection, were abandoned to the will of their sovereign \*;

Anno 1629.  
Rushworth,  
vol. II. p.  
25, & seq.  
Du Cheyne,  
p. 1226.

Peace with  
Spain.

\* The duke de Rohan implored the performance of these promises in the following pathetic letter :

“ Sir,

“ The deplorable accident of the loss of Rochelle, which God hath pleased to permit, to humble us under his hand, hath redoubled in the spirit of our enemies the passion which they have for our ruin, and the hopes to attain thereunto: but it hath not taken away from those churches of the provinces that courage or affection of opposing, by a just and vigorous defence, their unjust designs. This is that which hath made them take up a resolution, and assemble them-

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selves



ANNO 1629. in the other, no conditions were made for the Palatine, though his restitution was the only object

selves together, and to stand in a body amidst those commotions, to assist me with their good counsel, and provide with me means for their deliverance. And because the most powerful mean which God hath raised them upon earth is the aid which our churches have received, and do expect from your majesty, the general assembly have desired that my letter (which solely hitherto represented the interest of the public cause) might be joined to the most humble supplication, which they represent. I do it, Sir, with so much the more affection, because I am witness that this poor people breathe after your assistance, having once laid down their arms, which the oppression of the enemy made so necessary; and, because they knew it was your desire, took them up again, when they learned that your majesty obliged them to it by your counsel, and by your promises. Upon this sole assurance, they have exposed themselves to all dangers, overcome all obstacles, consumed their goods, and are still ready to spill their blood, even to the last drop. Your good will they have found more dear than their lives; and notwithstanding the promises and menaces which their enemies have made use of to move them, they have not been induced to make any breach of those oaths by which they were tied never to hearken to any treaty, but with your majesty's consent. All the churches of this kingdom, which are linked together to an unexampled fidelity, are glorious objects of your charity and power: you are, Sir, defender of that faith which they profess. Do not suffer it to be unjustly oppressed. You have stirred up their affections by your royal promises, and those sacred words, that your majesty would employ all the power of your kingdoms to shield those churches from the ruin which threatened them, and have been, next to the favor of God, the only foundation of their hopes. They thought it to be one of the highest crimes they could commit, to doubt of the performance thereof. If the beginning of their miseries hath moved their compassion, this sad subject hath increased upon them with so much violence, that there is nothing but your assistance can prevent their absolute destruction: for at this day the greatest misdemeanors which our enemies accuse us of, and publish that it cannot be expiated but by our blood, is the imploring and hoping for your assistance. Our goods for this are confiscated and destroyed; our farms desolate and burned to ashes; our heads exposed to the block; our families banished; our temples demolished; and every where, where  
the

of the war. Nor were the States consulted in this pacific measure, though Charles had entered into a treaty with them to check the ambitious views of the Spanish monarch. Anno 1629.

The disgraces which the British arms had lately sustained, sunk the reputation of England to so low an ebb, that she was insulted by all nations. In the port of Alexandria, before the peace with France was concluded, four English men of war pillaged three small vessels of Marseilles. On the complaint of the French consul to the bashaw of Aleppo, the English merchants were imprisoned, and their magazines and merchandize

*Rusliworth,*  
vol. II. p.  
27, & seq.

the cruelty of our ruinous enemies can extend, men and women beaten to mass with slaves. In short, the horror and persecution we suffer is so great, that our words are too weak to express them.

“ Furthermore, we see even at our doors powerful armies, which only wait the time to destroy those retiring-places which are left, and after that banish the exercise of religion, and massacre the faithful throughout the kingdom. Hereupon, if I should intreat your majesty not to abandon us, I fear by these words to offend a great king, so powerful and so faithful: but I will take upon me the boldness, by reason of our pressing necessities, to supplicate your ready assistance to hinder our falling under the strength of our enemies. Your majesty need not search elsewhere but in your own profound wisdom and experience, to render your succor redoubtable to those who despise it, and advantageous to those people who expect it. By this means you will gain the greatest glory which can be desired; you will free from fire and sword three hundred thousand families, which pray to God continually for your prosperity; will preserve a people whom God hath purchased by his blood, and have kept their faith towards God and man, amidst the greatest distractions and cruel sufferings; will place the fidelity of your word, the reputation of your state and your armies, in a point worthy of so much grandeur; and in checking the boldness of those who undertake to blast it daily with unworthy reproaches, will add to your title that of the restorer of the most innocent people in the world, and the most inhumanly persecuted.” *Rusliworth, vol. II. p. 4, & seq.*



Anno 1629.  
English consul  
insulted.

seized. Moreover the grand vizier, at that time encamped at Aleppo, in his way to Babylon, sent for the English consul, and after using him with great indignity, ordered him to be hanged, with his interpreter. The interpreter was immediately put to death. The consul, after having lain some time in a dungeon, obtained his life and liberty, at the price of thirty thousand ducatoons. It does not appear, that this injurious outrage was ever resented by the English court : The heroism of Charles and his ministry was totally confined to the triumphs they daily obtained over the laws and constitution of their country.

Tonnage  
and pound-  
age levied  
with rigor.  
Rushworth,  
vol. II. p. 8.  
& seq.

The duties of tonnage and poundage were now pressed with such unremitting violence, that the opulent merchants began universally to take the alarm, which was greatly encreased by the severity of the orders \* issued from the council-board to that effect.

\* That warrants should be directed to the officers of the customs in the ports of London and elsewhere, to seize and detain the goods of any who should attempt to land without warrant till the customs were paid; that such merchant-goods as remain on ship-board be removed into store-houses at the custom-house-quay, and, for want of room, into the Tower; to remain there till his majesty's duties, and the freight due to ship-masters, were satisfied. And whereas attempts were made, by replevin directed to the sheriff of London, to obtain those goods out of the store-houses, the messengers of the council were appointed to detain them in their keeping, and to apprehend and keep in safe custody all persons who should make resistance. Letters of command were sent to the officers and magistrates of the ports of the kingdom, to assist the officers of the customs in case of opposition.

Another strict order was made, enabling the messengers of the council to enter into any ship or vessel, house, warehouse, to search in any trunk or chest, to break any bulk whatsoever, in default of the payment of customs; and to apprehend all persons who should give out any scandalous speeches

To prevent the danger of a mutiny, directions were sent to the lord lieutenants of the respective counties, and to the lord-mayor of London, to put the militia on a formidable footing. The farce of proclamations and orders from the council-board against recusants, was again played over, and the bishop of Chalcedon was hunted out of England by the regular priests, who had for some time severely persecuted him; he was received and cherished by cardinal Richlieu.

Ireland abounded with such enormous grievances, that an offer was made to Charles from that distressed people of a release of one hundred and fifty thousand pounds which had been borrowed of them, with a grant of three subsidies to be paid in three years, on condition that certain oppressions should be redressed, and a parliament called to provide for such things as should be found necessary for the good of the commonwealth. The conditional favors which were granted to the Irish on the acceptance of this offer, shew the illegality of the government which had been hitherto exercised over this people \*.

Affairs of  
Ireland.  
Rushworth,  
vol. II. p.  
16, & seq.

speeches against his majesty's service, or cause any disturbance.

\* In consequence of the terms obtained from the English court by the Irish deputies, the following instructions were sent to lord Falkland, then deputy, and to the council of Ireland: That provision should be made against the laying any burthen upon the Irish for the payment of soldiers, except in cases of inevitable necessity; and against the granting protection to persons against whom judgment had been given in any of the courts of law; to resume, or limit in their exercise, several grants and patents for the selling of aqua vitæ, wine, and other commodities; regulations to be made in the commissions for restraining the oppressions of soldiers, in the manner of collecting the King's rents, of laying assessments for robberies, of granting reprieves to malefactors, of summoning grand-juries, and imposing fines upon the absent; the fees of officers of courts, sheriffs, and clerks of the

market,



Anno 1629.

To the regulations, calculated for the general good and quiet of the realm, was added one in

market, to be moderated; the number of provosts-marshal to be reduced to one in a province, their power restrained, so as not to execute any persons who might be brought to a trial at law, unless in time of rebellion; witnesses in private causes not to be bound over to the Castle-chamber, nor jurors to be bound over to any court, but upon very apparent suspicions of corruption and partiality; custodiams of lands granted upon outlawries to be discharged immediately upon sight of certificates of the reversal thereof; the testimony of persons notoriously infamous, and capitally convicted, not to be admitted for the condemnation of any subject, but under certain restrictions; speedy justice to be done to the poor; the court of Wards to be regulated; certain rules to be observed for the better discharge of the pastoral care; certain indulgencies to be granted for the advancement of trade, such as the transporting out of the kingdom tallow, hides, fresh beef, and pork in cask, without licence; for the better securing the subjects in the quiet enjoyment of their lands, the King to take no advantage of any title accruing to him antecedent to the term of sixty years; the Scots of the undertakers in Ulster to be made denizens, and all of them to be confirmed in their estates, on doubling their rents, and paying a fine of thirty pounds for every thousand acres. To quiet the minds and secure the possessions of the lords, gentlemen, and freeholders of Connaught and Clare, they were admitted to inrol the surrender made in the last reign; and such as had a mind to make new surrenders, were to have the same accepted and inrolled, and new patents passed to them. The lords and gentlemen of the province of Connaught and the county of Clare, had, on a composition, surrendered their estates into the hands of Elizabeth, but had neglected to inrol their surrender, and to take out letters-patent for them. These were granted them in the thirteenth year of king James; but not being inrolled in Chancery, their titles were still defective. This omission was occasioned by the neglect of a clerk entrusted by them. They had paid near three thousand pounds to the officers at Dublin for the inrolment. Notwithstanding that an act of state had passed in their favor in the year 1618, and that they had paid great sums of money for it, the crown entertained a project of resumption. It was laid aside on the danger which might accrue from making such an experiment on a province, strong from its situation, and from the number of its inhabitants.

For

Anno 1629.

favor of Roman Catholics; that the lawyers, and such as held *in capite* of the crown, should be dispensed with in regard of the oath of supremacy, and, on their taking an oath of allegiance to Charles as lawful king of the realm, allowed to practise, and sue their liveries *ouster les mains*. On this and other indulgencies, the Popish party grew so assuming, that they openly professed their religion in every part of Ireland. They founded a new university at Dublin, to breed up the youth in an entire devotion to the Pope; erected friaries, monasteries, and nunneries, and replenished them with votaries; said mass in the churches, excommunicated those who, even in matrimonial causes, applied to the Spiritual-court, and raised a tumult at Dublin on the magistrates attempting to apprehend an officiating priest. On the lord-deputy's issuing out a proclamation, commanding them to forbear the public exercise of their Popish rites, they carried their complaints to court against the government of Ireland. The king had the complaisance to recal the deputy, and appointed Loftus (the lord-chancellor), and the earl of Cork (the lord-treasurer), to manage the affairs of that kingdom. These, it is said, had private orders to slacken the persecution which was intended by the council of Ireland against the Roman Catholics.

Guthrie,  
vol. III.

Whilst, from the neglect or connivance of government, the Papists thus triumphed in Ireland, some important steps were taken to improve the hierarchical tyranny in England. Laud, and

Heylin's  
Life of  
Laud. p.  
109, & seq.  
Measures to  
advance the  
hierarchy.

For a further security to all the proprietors, their several estates to be confirmed to them and their heirs by the next parliament to be held in the kingdom, in which an act was to be passed for a general pardon. *Carte's Life of Ormond*, vol. I. p. 47, & seq.



Anno 1629. Harinet, archbishop of York, drew up a paper for the benefit of the church: after it had received the King's approbation, it was sent to the archbishops, by them to be communicated to the bishops of both provinces. It contained nine articles, called Regal Instructions: they are precautions against the Puritans, or any dissenting from the doctrine approved of by authority. Laud wrote letters to all the archdeacons in his diocese, exhorting them to the performance of what the King required, at the peril of losing his majesty's favor, or whatsoever else might follow\*.

\* In consequence of this exhortation, and the aforesaid instructions, one Palmer, a popular minister, was silenced by the commissioners, on the accusation of Dean, archdeacon of Canterbury, That he read prayers against the ministry's will, and not according to the canon; that in the catechising he took upon him to declare the King's mind in his instructions; that he had never heretofore read prayers, or used the surplice in the church; that he preached a factious sermon in the cathedral-church, and detracted from divine service there; that factious parties in all the parishes in the town were his auditors. Abbot, the archbishop of Canterbury, who disliked the limitations concerning lecturers, in the King's instructions, with other articles tending to establish Arminianism, and knowing the worth and innocence of Palmer, authorized him, and one Udnay, another silenced minister, again to preach, and inhibited the archdeacon from his jurisdiction. Many other ministers were suspended, and enjoined recantation, for lightly touching on any points contrary to Popery, or the new doctrine.

A patent having passed the great seal for a collection towards the relief of the exiled Palatine ministers, Laud objecting to a particular clause in it, the patent was cancelled, and a new one granted, with the offensive passage left out. The clause was as follows: "Whose cases are more to be deplored, for that this extremity is fallen upon them for their sincerity and constancy in the true religion, which we, together with them, do profess, and which we are all bound to maintain to the utmost of our powers; whereas these religious and godly persons, being involved amongst others their countrymen, might have enjoyed their estates and fortunes, if,

As a reward to the ministers of the city of York Anno 1629.  
for their punctuality in observing the late instructions to the clergy, an addition was made to their yearly maintenance, by an arbitrary tax laid on the rent of houses in York. Davenant, bishop of Sarum, was called before the council, and severely reprimanded for having, in a sermon preached at court, slightly touched on the points prohibited in the King's declaration. The university of Oxford vied with its rival, Cambridge, in complaisance to the royal inclinations : on the death of the earl of Pembroke, which happened in the beginning of this year, they elected Laud their chancellor \*, who ruled the

if, with other back-sliders, in the time of trial, they would have submitted to the antichristian yoke, and would have renounced or dissembled the true religion."

Prynne tells us, that when the patent with the above clause was shewn to Laud, he fell in a great passion, and protested, that were it not for his respect and engagement to the queen of Bohemia, the Palatine ministers should have no collection; that he could find in his heart to quash it; however, he would have a patent drawn in another form. After this, secretary Cook and the lord-keeper Coventry were sent for to the King: They acquainted him, that the patent was made according to the former precedents; that they had his majesty's hand and royal assent thereto; it had passed the great seal, and could not now be altered. To this the King answered, "It must be altered; the archbishop will have it so; draw another according to his mind." So great was this prelate's care lest the English church should be sullied with the principles of the reformed religion, that on the prince palatine's coming into England in the year 1637, a declaration of the faith and ceremonies of the Palgrave's churches being published, they were strictly called in, and seized by the High-commission pursuivants. *Trial of Laud, by Prynne, p. 391, & seq.*

\* There was not a general conformity among this learned body to the humors and designs of the court. Ford of Magdalen-college, Thorne of Baliol-college, and Hodges of Exeter-college, being convened before the vice-chancellor Dr. Smith, for preaching against the King's instructions, appeared



Anno 1629. conscience of his pious master with a despotic tyranny. He was his spiritual and political guide, and from this circumstance had an entire sway in the High-commission court, the Star-chamber, and the Privy-council; which last had now erected itself into an absolute court.

Persecution  
of ministers.

Mr. Bernard, lecturer of St. Sepulchre's, London, preached a sermon at St. Mary's in Cambridge, in which were some passages against introducing Pelagian errors, and Romish superstitions, into the church of England. On his refusing to make a public recantation, penned for

pealed from him to the convocation: The proctors received the appeal. By the means of Laud, the matter came before the King and council, who passed a sentence that Ford, Thorne, and Hodges, should be banished the university, and that both the proctors should resign their offices. Dr. Prideaux, rector of Exeter-college, and Dr. Wilkinson, principal of Magdalen-Hall, received a sharp admonition for their behavior in this business. The town of Plymouth shewing an intention to chuse Ford their lecturer, they were required not to do it, on pain of the King's displeasure, and the bishop of Exeter was enjoined not to admit him in that capacity.

Mr. Hodges, on an abject submission in the following prescribed form, was restored to the University: 1st, A public recantation-sermon in St. Mary's church in Oxford, confessing his great offences in preaching contrary to his majesty's declaration. 2dly, A submission and recantation in the convocation-house, before the whole assembly of doctors, proctors, &c. In this he was to acknowledge, that he fell upon the delivery of those points which, by his majesty's royal injunctions, were forbidden him to meddle with at all; and that he let fall some passages which might be taken to the disparagement of the government of the church; for which offence he had deserved the sharpest of censures, and severest of punishments; and therefore his royal majesty justly rewarded him for the same. He was to implore the pardon of the University in general, and more especially of the most honorable chancellor of that University. *Rushworth*, vol. II. p. 110, & seq. *Heylin's Life of Laud*, p. 215. *Prynne's Trial of Laud*, p. 174, & seq.

him,

him, he was fined in the High-commission court Anno 1629. one thousand pounds, suspended from his ministry, condemned in costs of suit, and committed to prison, where he died: The consequence of his imprisonment, it is said, shortened his life.

One Workman, lecturer in the liberty of Gloucester, was, for the offence of preaching against images, suspended from his office, excommunicated, ordered to make recantation of his erroneous and scandalous doctrine, condemned in costs of suit, and imprisoned. The corporation of Gloucester, approving much of this man for his diligent performing the duties of his function, had, on account of his great family, granted him an annuity of twenty pounds *per ann.* under their common seal. For this act of generosity, Laud summoned the mayor, and other of the aldermen, before the council-table, as delinquents. The deed was cancelled, and two of the defendants fined ten pounds a-piece, though their council alleged, that the grant ought first to have been proved illegal, and the whole corporation, whose act it was, made parties to the suit. The unfortunate Mr. Workman, thus deprived of his annuity, having, after some months imprisonment, obtained his liberty, taught children in private: Laud forbid him to follow this occupation. He then practised physic for the support of his family; but the merciless Laud prohibiting him this resource, the distressed man sunk under his poverty and affliction, and in a short time died.

Prynne's  
Trial of  
Laud, p. 103.  
& seq.

These excesses, when compared to what follows, were but moderate abuses of that absolute sovereignty which Charles had assumed, and delegated to Laud. Alexander Leighton, a doctor of divinity, a Scotchman, and a zealous Puritan,

Leighton's  
cruel usage.

by



Anno 1630.

by desire of some of the party, had written and published a book, called, "Zion's Plea against Prelacy." It contained some warm imprudent invectives against the prelates, and the conduct of those in power. Soon after the publication of the work, without an information upon oath, or legal proof\* who was the author, Leighton, as he was coming from church, was arrested by two High-commission pursuivants. They dragged him to the house of Laud, where he was kept till seven in the evening, without food. Laud returning home at this time in great pomp and state, with Corbet bishop of Oxford, Leighton demanded to be heard. The haughty Laud did not deign to see him, but sent him to Newgate: He was clapped into irons, and confined in an uninhabitable apartment, where, notwithstanding the weather was cold, and the snow and rain beat in, there was no convenient place to make a fire. From Tuesday-night to Thursday-noon, he was unsupplied with food; and in this infernal dwelling was kept fifteen weeks, without any friend, not even his wife, being suffered to come near him. His own house was in the mean time rifled by the officers of the High-commission court; his wife and child treated by these ruffians with great barbarity; himself denied a copy of the commitment; and the sheriffs of London refused to bail him, on his wife's petition. At the end of the fifteen weeks, he was served with a subpoena. Heath, the attorney-general, on an assurance that he should come off well, extorted a confession from him, that he was the author of the book. An information by Heath being lodged in the Star-chamber, he confessed the writing of the book, but with no such ill inten-

Rushworth,  
vol. II. p. 55,  
& seq.

\* The book was printed beyond sea.

tion

tion as the information suggested. He pleaded, that his aim was to remonstrate against certain grievances in church and state, under which the people suffered, to the end that the parliament might take them into consideration, and give such redress as might be for the honor of the King, the quiet of the people, and the peace of the church. This answer not being admitted as satisfactory, the following cruel sentence, by the unanimous consent of all the members of this tyrannical court, was pronounced against him, though sick and absent: "That he should pay a fine of ten thousand pounds to his majesty's use; and in respect that the defendant had heretofore entered into the ministry, and the court of Star-chamber did not use to inflict any corporal or ignominious punishment upon any person so long as they continued in orders, the court referred him to the High-commission, there to be degraded of his ministry; that done, for farther punishment, and example to others, the delinquent to be brought into the pillory at Westminster (the court sitting), and there whipped; after his whipping, to be set in the pillory for some convenient space; to have one of his ears cut off, his nose slit, and to be branded in the face with S. S. for a sower of sedition; then to be carried to the prison of the Fleet; and at some other convenient time afterwards to be carried into the pillory at Cheapside upon a market-day, to be there likewise whipped, then set in the pillory, have his other ear cut off, and then be carried back to the prison of the Fleet, there to remain during life, unless his majesty be graciously pleased to enlarge him\*." This sentence was given at the end of

\* It is said, that when this sentence was pronounced, bishop Laud pulled off his cap, and gave God thanks for it.



Anno 1630.

Trinity-term. It was not till Michaelmas-term following, after the degradation, that it was put in execution. The evening before the intended day of suffering, Leighton escaped out of prison. He was apprehended in Bedfordshire, and brought again to the Fleet \*.

On Friday, November the sixteenth, part of his sentence was executed in this manner: In the New-Palace-Yard at Westminster, in term-time, he was severely whipped, then put in the pillory, where he had one of his ears cut off, one side of his nose slit, branded on one cheek with a red-hot iron with the letters S. S. and afterwards carried back again prisoner to the Fleet, to be kept in close custody. On that day sevensnight, his sores upon his back, ears, nose, and face, not being cured, he was whipped again at the pillory in Cheapside, and there had the remainder of his sentence executed upon him, by cutting off the other ear, slitting the other side of the nose, and branding the other cheek. Dr. Leighton, in his own account of this horrid execution, adds, that the hangman was made half drunk, and enjoined to perform his office with ferocity; that he stood, after receiving the punishment of the lash, almost two hours in the pillory, exposed to frost and snow, and then suffered the rest; that being with these miseries disabled from walking, he was denied the benefit of a coach, and carried back to

\* Laud, the superintendant of all the cruelties committed at this period, made on this incident the following memorial: "Leighton was degraded at the High-commission, Tuesday the ninth of November. That night Leighton broke out of the Fleet. The warden says, He got, or was helped, over the wall; and moreover professed, he knew not this till Wednesday-noon: He told it not me till Thursday-night. He was taken again in Bedfordshire, and brought back to the Fleet within a fortnight." *Laud's Diary by Pryne*, p. 16.

prison

prison by water, to the farther endangering his life. Elphinston and Anderson, two of his friends and countrymen, who helped to procure his escape, were for this act of humanity fined in the Star-chamber five hundred pounds a-piece, and committed to the Fleet during the King's pleasure.

I have been more particular in the account of this barbarous exertion of power, because almost every other historian, either from tenderness to the character of the government, or from motives of abhorrence to the nature of the offence given by the wretched sufferer, has passed it over in a very slight manner. It must be owned, that Leighton, fired by an ungovernable zeal, and provoked by the mischievous conduct of the people in power, had made a very bold attack on the ecclesiastical constitution as maintained by Charles, and had been bitter in his reflections on the queen, who, from the influence she had now gained over her husband, was generally regarded as the principal cause of his unpopular government. Notwithstanding all which may be said against the conduct of this unfortunate enthusiast, his offence was by no means adequate to his punishment; his treatment and prosecution notoriously inhuman and illegal; the judgment passed against him was by an arbitrary court, whose jurisdiction was unconstitutional, in a manner created by the crown, and cherished as a never-failing engine of despotism. The tyranny it at present exerted outwent every example of former ages: It was the ready minister of vengeance to all who opposed the weak and wicked designs of a bigoted, arbitrary monarch; and entirely influenced in its conduct by the persecuting furious spirit of an arrogant usurping priest, who was pursuing



Anno 1630. pursuing with the utmost violence the plan of an absolute, independent, ecclesiastical government. The sentence it had lately passed against the unhappy Leighton was directly contrary to the humane spirit of the British laws; and the single instance of such an execrable barbarity would have disgraced the government of an absolute monarch.

Rushworth,  
vol. II. p. 76,  
& seq.

The public were strongly affected by this impolitic act of cruelty. Laud increased the popular clamor by several Popish fopperies which he introduced on his consecration of St. Catherine Creed's Church, which had been new built by the parishioners, and for some time prophanely made use of for religious offices, without the ceremony of a new consecration. This coming to the pious prelate's ears, he suspended it from all divine service till he had performed this office, which he did with much solemnity, to the surprize of an infinite number of spectators, who were ignorant of the necessity of such a ceremony\*. The communion-table was removed

\* On his coming to the West door of the church, several loud voices, previously prepared, cried out, "Open, open, ye everlasting doors, that the king of glory may come in." On the doors opening, the bishop entered the church, and fell on his knees; then, with his eyes lifted up, and his arms expanded, he uttered these words: "This place is holy; the ground is holy; in the name of the Father, Son, and Holy Ghost, I pronounce it holy." Then going towards the chancel, he several times took up the dust, and threw it in the air. When he approached the communion-table, he bowed frequently towards it; and returning, he and his attendants went round the church in procession, repeating the hundredth psalm; after this the nineteenth psalm; and then said a form of prayer, which concluded thus: "We consecrate this Church, and separate it unto thee as holy ground, not to be prophaned any more to common uses." After this, the bishop, at the communion-table, pronounced imprecations on all who should pollute that holy place, by musters of soldiers,

from the middle of the area, where it had hitherto stood in all churches, except in cathedrals: it was placed at the East-end, and denominated an altar. It is difficult to imagine how violent the zeal of this man was to introduce these kind of innovations. In administering the sacrament, kneeling at the altar and using of copes were rigorously insisted on; the crucifix resumed its consequence; and the churches were ornamented

diers, keeping prophane law-courts, or carrying burthens through it. On the conclusion of every curse he bowed towards the East, and said, "Let all the people say Amen." When the imprecations were ended, he poured forth blessings on all those who had any hand in framing or building that sacred and beautiful edifice, and on those who had given, or should hereafter give to it any chalices, plate, ornaments, or utensils. On the conclusion of every benediction he in like manner bowed towards the East, and said, "Let all the people say Amen." A sermon succeeded. Then the bishop consecrated, and administered the sacrament in the following manner: As he approached the communion-table, he made many low reverences, and coming up to that side of the table where the bread and wine were placed, he bowed seven times. After reading many prayers, he approached the sacramental elements, and lifted up the corner of the napkin wherein the bread was laid. When he beheld the bread, he suddenly let fall the napkin, starting back a step or two, bowed three several times towards it, then drew near again, opened the napkin, and bowed as before. Then he laid his hand on the cup, let it go again, went back and bowed thrice towards it, then drew near and lifted up the cover; on seeing the wine, he let fall the cover, again retired back, and bowed as before. After this ceremony, he received the sacrament, and administered it to others. Many prayers followed, which concluded the solemnity of the consecration.

The same was acted over at the church of St. Giles in the Fields: and Laud after this consecrated two new-built churches; the one at Hammer-smith, and the other at Stanmore-Magna in the county of Middlesex, with divers chapels, obliging the several parishes to pay fees to himself and officers for performing those ceremonies. *Heylin's Life of Laud*, p. 212, & seq.



Anno 1630. with pictures which were to be found in the mass-books \*.

\* Sherfield, the recorder of Salisbury, was prosecuted in the Star-chamber for having, in the windows of St. Edmund's church in that city, destroyed, by an order of the vestry, some panes of painted glass which represented the Creation. To the information lodged against him in this court, he argued, that the church was a lay-fee, exempted from the jurisdiction of the bishop of the diocese; and that the parishioners had lawful power, without special licence from the bishop, to take down the glass of the window, and repair it with white glass. He farther pleaded, that the window was not fair and costly, as the information set forth, but of very rude work; that it was of four lights only, and not any of the fair windows in the church. He denied the riotous breaking of the window: He took a few small quarries of it down, in a quiet and peaceable manner; that it was not a true history of the Creation, but a false description of the same, wretchedly executed; that the painter, to express God the Father, had painted the forms and pictures of divers little old men, seeming barefooted, and cloathed in long blue coats; that he held it ungodly, and altogether unlawful, to frame any image or similitude of God the Father, Creator of heaven and earth, and the first person in the Holy Trinity; that this his belief was the doctrine of the church of England established by act of parliament in 13 Eliz.; that according to an act of parliament, *ann.* 1 of this queen's reign, injunctions were published, whereby all who had cure of souls were commanded to instruct their parishioners to destroy pictures and monuments of idolatry and superstition, that no memory thereof might remain in walls, glass windows, or elsewhere; that it was to be enquired of in the visitations, whether all images, pictures, paintings, and other monuments of idolatry, were removed? and that these injunctions being grounded on the statute of the 1 Eliz. were yet in force.

Notwithstanding this plea, the court pronounced sentence, That Mr. Sherfield should be fined five hundred pounds, and removed from his office; that he should repair to the lord-bishop of his diocese, and make acknowledgment of his offence and contempt, before such persons as the bishop should call unto him; and that he should be bound to his good behavior.

Bishop Laud, who was very vigilant in this prosecution, made a long speech, in which he endeavored to prove, that the custom of setting up images was not only inoffensive but laudable. "God the Father in the prophet Daniel, was called

To give to religion that external magnificence agreeable to the designs of the Arminian prelacy,

called the Ancient of Days ; and images had been used in the earliest times of the church. However that might be, the act which Mr. Sherfield had committed was highly criminal; because done in contempt, or at least in neglect, of the authority of the church. If it had been the idol of Jupiter, and the people had professed divine worship to it, it would have been criminal in Mr. Sherfield to deface it, without lawful authority, as could be proved from scripture." Laud complained, that there had been many insolencies committed in that church: A bishop's bones had been taken up, and all to bury a tanner's wife. Mr. Sherfield had been guilty of breaking a consecrated thing : it pleased God to give him a fall upon the place ; yet these things had not wrought him to confession that he had done amiss. Laud finished his harangue with prophesying, that the time would come in this kingdom when all those who despised the church would be brought low.

Neile, archbishop of York, made an elogium on the use of images and the crucifix ; he reprimanded the defendants for asserting, that the authority queen Elizabeth had to reform, and set forth her injunctions, were given by her parliament: the statute of the first of Elizabeth, he said, was but an act declaratory, not to be taken as if the Queen, without it, had no power to meddle with the things of the church. He that said, *Per me reges regnant*, giveth this authority to the King.

Lord Cottington gave a severe sentence against Sherfield, as did the lord Arundel, who alledged, that it was not unlawful to express God the Father by representation. The earl of Dorset said, that in the text of Daniel was meant God from eternity, and not God to be pictured like an old man, creating the world with a pair of compasses. He and all the temporal members, who differed from the prelates in this sentence, made many professions of their veneration for the power of the church ; that Sherfield was highly criminal in not paying due respect to its authority, and ought to make acknowledgment to the bishop.

Smart, prebend of Durham, having complained to the Commons in the year 1628, that Dr. Cofens had introduced in that cathedral several Popish innovations, he was, after the dissolution of the parliament, successively brought into the High-commission courts at Durham, Lambeth, and York, deprived of all his ecclesiastical livings, imprisoned several years, and his preferment given to others.



Anno 1631.  
Rushworth,  
vol. II. p.  
28, & seq.

Acts of  
Power.

the active Laud undertook the repairing and rebuilding of St. Paul's. His devout master, by his authority and countenance, encouraged the expensive project, and, with all the ostentation of royal parade, made a visit to this cathedral; where, after divine service was performed, he solemnly promised not to be wanting in the piety of his best endeavours to the repair of those ruins which time, the casualties of weather, or any other accident, had brought upon it. Legal justice was a virtue which made no part of the religious or moral character of Charles: so, in the execution of this new scheme, power supplied the defects of law, and every obstacle to the undertaking was removed by an exertion of that unlimited authority which he had assumed over his subjects. By an order of the privy-council, St. Gregory's church being an impediment to the work in hand, was, at the great expence of the inhabitants, removed. Houses and shops were pulled down, and the proprietors obliged to accept such a compensation as should be judged adequate by commissioners appointed by authority. In those counties where there was found a slowness in contributing to the briefs issued forth under the great-seal, persons of wealth and influence were quickened by reprehensions from the council-table\*.

From the accession of Charles to this period, the plague had continued to rage with more or less violence in the city of London. It carried off this year 1317 persons. *State Trials*, vol. I. p. 377, & seq. *Rushworth*, vol. II. p. 80.

\* Sir Francis Knowls and Sir Thomas Vachel, two justices of peace for the county of Berks, received letters wherein they were taken to task, "for delaying to publish his majesty's commission, and forbearing to express their own liberalities to so pious a work; and were enjoined for the redeeming of opportunity already let slip, to redouble their diligence, and to return an exact account of the money given by themselves and

Whilst Laud was thus exalting the crossier, rendering his master the substitute of metropolitical power, and the privy-council the executioners of ecclesiastical insolence and cruelty, Charles was studying the means to raise a sum of money which should provide sufficiently for the support of the crown, without the assistance of parliament. The first expedient practised was not only to continue tonnage and poundage, but also to enhance the book of rates upon several merchants goods; and the collection of such rates to be enforced out of the course of the ordinary courts of justice. The next was a proclamation, in which every man who had been possessed of forty pounds a-year for three years, and had not been knighted at the King's coronation, was summoned to compound, as well for their fines and contempts, as for their respite to take that order upon them \*. Many were put

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Rushworth,  
Preface to  
vol. II.

Impositions.

and others, that the King, being therewith acquainted, might distinguish between such as were forward and well affected, and such as were slack and remiss in doing God and him service." To shew the expence requisite to repair this cathedral, and ornament it according to Laud's plan, it may not be improper to relate, that from the zeal of that faction devoted to the church, and money extorted by various ways from the rest of the subjects, the public contributions amounted to upwards of 101,330 l. The King gave upwards of 10,000 l. and the fines and commutations in the High-commission and spiritual courts were commonly assigned to this use: A general murmur arose, that penalties were imposed for a tax to St. Paul's. The public was not only dissatisfied at the arbitrary manner in which this business was conducted, but at the many new images and ornaments with which this stately edifice was adorned. *Complete Hist.* vol. III. p. 67. *Whitlock*, p. 17. *Heylin's Life of Laud*, p. 222, & seq.

\* This was an excessive degree of oppression, because Charles had, on account of the plague which raged in London at the time of his coronation, in a manner dispensed with the attendance of such subjects as were qualified to be knights. There is reason to believe, that money was extorted from people



Anno 1631. to great expence in the Exchequer and Star-chamber, for refusing to pay the composition-money \*,

ple who were not in possession of forty pounds per year. *Vide Strafford's Letters, &c.* vol. I. p. 419.

\* James Malverer, of Arncliffe in the county of York, submitted to the judgment of the court of Exchequer what fine they should think fit to impose on him. The court refused that course of imposing a fine, and put the party submitting to compound with commissioners in the county. Malverer complained, that afterwards, upon writs of distrain from the Exchequer, several excessive fines were returned upon his lands, amounting to the sum of two thousand pounds, a great part of which he paid. In like manner the lord chief-baron, and the rest of the barons of the Exchequer, did order the same undue proceedings against Thomas Moyser, Esq. and against several other his majesty's subjects, in different parts of the realm, to the undoing of many of them.

It is said, that above an hundred thousand pounds were brought into the treasury, extorted on this business of knighthood. The imposition was so universally disliked, that many of the sheriffs neglected to execute their orders, and return the names of persons qualified. The attorney-general was directed to proceed, by information in the Exchequer, against the sheriffs who should appear to have been most negligent.

This imposition was grounded on a statute made in the first of Edw. II. called *Statutum de Militibus*. It exempted those from taking knighthood who were not possessed of twenty pounds per year; those who were not of age, and those whose land was held in manors which were ancient demesnes of the crown, which land was obliged to pay talliage; those clerks in holy orders who held lay-fees, and those who held burgage-land; those who had held their lands but a small time; those who pleaded great age, default of their members, or any other incurable infirmity, as charge of children, or of suits, were admitted to compound on reasonable fines.

This statute was enacted when the system of feudal services in person during war existed; and though it was now abolished, yet as this statute, which had been made whilst it was in full force, remained unrepealed, Charles's ministry pretended, that the right of imposing the honor remained still with the crown; and that the King might oblige all persons to be knighted, or to pay composition; the qualification to be forty pounds per year.

Besides the palpable injustice of receiving a tax founded on a system which did not now exist, twenty pounds per year, in the time of Edw. II. were equivalent to two hundred in

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required to be one third and a half as much as the persons compounding would be rated in the gathering a tax of three subsidies and a half.

Anno 1631.  
Franklyn's  
Annals,  
p. 381.

In order to exercise the militia, and put them on a formidable footing, each county was assessed at a certain sum for the entertainment of a muster-master appointed for that service. Compositions were again openly made with recusants, notwithstanding a statute enacted, in the last parliament of James's reign, against the dispensation of penal laws. The same statute had abolished monopolies, but had left an exception in favor of new inventions. Under the pretext of these, and of erecting new companies and corporations, monopolies were again revived on all sorts of commodities: soap, salt, wine, leather, sea-coals, pins, starch, even to the sole gathering of rags\*.

Monopolies.

Rushworth,  
Preface to  
vol. II. and  
vol. II. p.  
12, & seq.

A large revenue was raised by these oppressions†. Proclamations continually issued from

the seventeenth century. *Rushworth*, vol. II. p. 135, & seq. p. 70. *Statutes at Large*.

\* An office was erected for sealing cards and dice, a new illegal tax. A patent was granted to one Francis Tucker, gentleman, and others, giving them power to dig or delve in any place in England and Wales for hidden treasure, on their paying to the crown the fourth part of what they should find, and making satisfaction according to the valuation of the next justice of peace. Another patent was granted to one David Ramsey, for the sole privilege of separating metals, on condition that one third of the profit should be paid to the crown. *Rushworth*, vol. II. p. 103. & seq. *Rymer*, vol. XIX. p. 157, 201.

† Soapboilers were prohibited the trade, unless they entered into the new-erected corporation. It paid ten thousand pounds in advance, and eight pounds *per* ton. Moreover, an office was erected with full powers to superintend the said corporation, and to mark such soap as should be thought fit for sale: The subject was prohibited to sell any soap unless so marked. It is easy to see the evil consequences to trade which such an oppressive power, exercised by the crown, must produce;



Anno 1631. the council, enjoining what was not enjoined by law; and the Star-chamber censured by heavy mulcts and imprisonments any disobedience to these proclamations\*.

duce: Like other national evils, it assumed pretensions to public utility—the preventing the bringing any bad soap to market. An information was prefixed in the Star-chamber, by Noy, the attorney-general, against sixteen soap-makers, defendants, charging them with several offences contrary to letters-patent, and proclamations touching the making and uttering soap, and using the trade of soap-makers. The defendants set forth several acts of parliament, letters-patent, charters, customs, and acts of common-council of the city of London, and other matters materially conducing to their defence, and in conclusion pleaded Not Guilty. The court of Star-chamber referred to Sir Robert Berkley, one of the justices of the court of King's Bench, to consider of the impertinency, as it was termed, of the defendants' answer. Berkley certified the said court, that the whole answers, excepting four words, and the ten last lines, should be expunged, leaving no more substance than the plea of Not Guilty. On another reference to Sir Robert Berkley, on the pretended impertinency of the interrogatories, and depositions of witnesses taken on the defendants' part, he certified, that the said interrogatories should be suppressed. By reason of this certificate, the sixteen defendants were, by a sentence of the court of Star-chamber, committed to the Fleet, disabled from using their trade of soap-making; one of them fined in the sum of fifteen hundred pounds, two of them in one thousand pounds each, and four of them in one thousand marks each. The corporation of starch-makers covenanted to pay into the Exchequer, for the first year the sum of fifteen hundred pounds, for the second year the sum of two thousand five hundred pounds, and after the said two years the sum of three thousand five hundred *per ann.* A surveyor and commissioners were also appointed by the crown to superintend this company. *Rushworth*, vol. II. p. 12, & *seq.* p. 136. 165. vol. III. *Appendix*, p. 109.

\* This court, on every pretext, condemned to excessive fines for the King's use all those who were cited before them. The printers of a new edition of the Book of Common-Prayer suffered a large pecuniary mulct for leaving out one letter.

One Allinson, for saying that the archbishop of York had asked a limited toleration for the Papists, was condemned to a fine

The old obsolete laws of the forest were re-  
 vived, by which not only great fines were im-  
 posed, but great annual rents intended to be  
 settled by way of contract. The better to effect  
 the same, examples were made, by sentence in  
 the Star-chamber against several persons for de-  
 populations, nuisances in building, pretended  
 encroachments upon the forests; with other  
 things of the like nature \*. A proclamation was

Anno 1631.

Proclama-  
tion.

a fine of one thousand pounds, to be committed to prison, to  
 be bound to his good behavior during life, to be whipped, to  
 be set in the pillory at Westminster, and at York, Ipswich,  
 and Yarmouth.

Lord Morley was fined eleven thousand pounds for  
 quarrelling in the court of Whitehall with Sir George Theo-  
 balds, one of the King's servants. Laud gave his vote that  
 this censure should be twenty thousand pounds.

One Maud was fined five thousand pounds, for saying that  
 he heard the King went to mass with the queen. Pickering,  
 for saying the King was a Papist in his heart, was deeply  
 fined, set in the pillory in two several places, and lost both  
 his ears.

One Greenville was fined four thousand pounds, and to  
 pay four thousand pounds damages, for saying that the earl  
 of Suffolk was a base lord.

Sir Richard Wiseman, for some offences of the same kind  
 against the lord-keeper, was deeply fined, both to the King  
 and to that lord, was set in the pillory, and degraded from  
 his rank of a baronet.

One Bennet was fined one thousand pounds to the King,  
 and one thousand to the earl of Marlborough, for saying that  
 the said earl had dealt basely with him, in not paying him  
 thirty pounds which were due upon bond. *Strafford's Let-  
 ters*, vol. I. p. 335. vol. II. p. 128, 180. *Rushworth*, vol.  
 II. p. 269. vol. III. *Appendix*.

\* On the authority of some old statutes, which had been  
 repealed in the twenty-first of James, against depopulations,  
 or the converting arable lands into pasture, Sir Antony  
 Roper was fined four thousand pounds. This severe illegal  
 sentence terrified others into compositions, which brought  
 in a large sum. Like compositions, or heavy fines, were ex-  
 acted for encroachments on the King's forest, the limits of  
 which, by parliamentary decrees, had been esteemed arbi-  
 trary



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Rym. Fœd.  
vol. XIX.  
p. 163.

issued to inform the public, that his majesty had renewed a commission to some lords, judges, and council learned, to sell, grant, and confirm to them, all possessions to which their titles were any way defective, by making such compositions as the said commissioners should approve and accept. Letters were sent to the justices and barons of the Exchequer, to frame orders for an office of receiver and collector of fines and forfeitures erected by the late King, and confirmed by the present. On the meeting of the judges, they concluded that the patents for this office were against law and the King's profit. Nor was the behavior of the judges of Westminster-Hall so condescending as it had been \*: They strenu-

trary and unjust: They were now extended much beyond the usual bounds. The forest of Rockingham was increased from six miles to sixty; and the encroachers were fined, the earl of Salisbury twenty thousand pounds, the earl of Westmoreland nineteen thousand pounds, Sir Christopher Hatton twelve thousand pounds, Sir Lewis Watson four thousand pounds, lord Newport three thousand pounds, Sir Robert Bannister three thousand pounds, with many other less fines.

The forest business was so highly resented, that many hundreds of the ordinary sort underwent heavy fines for resisting those who enclosed for his majesty's use, according to the new claim.

On the authority of a statute of the 31 Eliz. a commission was executed against poor cottagers who had not four acres of ground laid to their houses. This was even more burdensome to the poor than the tax of ship-money. *Strasford's Letters*, vol. I. p. 335. 337. vol. II. p. 117. *Rusworth*, vol. III. *Appendix*.

\* Sir Giles Arlington was questioned by the High-commissioners for having married his niece: he pleaded, that it was not within the Levitical interdict; and brought the affair into the Common-Pleas. The court of Common-Pleas granted two rules; one requiring the High-commissioners to shew cause why a prohibition should not be granted, and the other intimating, that if they proceeded a prohibition should follow. Charles severely chid the judges for this encroachment, as he termed it. On Laud's protesting, that he

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## C H A R L E S I.

ously refused to comply with the royal commands not to grant any more prohibitions against the Prerogative-court, of which Sir Henry Martin was judge\*. Anno 1631.

he would excommunicate them in his diocese, and denounce it himself at St. Paul's, if the archbishop of Canterbury did not do it in his province, they desisted. Sir Giles was forced to submit to the High-commission court: He was sentenced to pay a fine of twelve thousand pounds to the King, to give twenty thousand pounds security never to cohabit with his niece, and to be imprisoned, or give sufficient bail, till himself and bride had done penance at St. Paul's Cross, and St. Mary's Church in Cambridge.

\* This command was in compliance with the dictates of a paper presented by bishop Laud to the King, entitled, Considerations for the better settling the church government.

The nation was kept in continual alarm by the visible advances Charles and his favorite Laud were daily making towards the overthrow of the constitution. Some time before this, a paper had been handed about, entitled, A Proposition for his Majesty's Service, to bridle the Impertinence of Parliaments. It consisted of two parts; the first was to subdue the power of parliaments, and the other for increasing the royal revenue. The reader may see the proposal at large in *Rushworth*, vol. I. *Appendix*, p. 12, & *seq.* Many of the particulars have, to the misfortune of this country, been successfully and substantially carried into execution by the ministers who succeeded these times. They were but too congruous to the practices of Charles, to his arbitrary levies of money, to his declarations against parliaments, his infringement of their privileges, and avowed resolution not to acquiesce in their determinations. When they were communicated to the public, they set the nation into such a flame, that the court found it necessary to endeavor to vindicate themselves. The earl of Bedford, the earl of Somerset, the earl of Clare, Sir Robert Cotton, Mr. Selden, and Mr. St. John, were committed to prison, and prosecuted in the Star-chamber, for being the authors and publishers of the libel. In the course of the trial it appeared, on the oath of Sir David Fowles, that the scheme had been written some time ago by Sir Rob. Dudley, a discontented Papist residing in Tuscany, who, in right of his grandfather, had taken upon himself the title of duke of Northumberland. This scheme he had sent to James, on the differences between him and his parliament; "concluding, as the ingenious Mr. Walpole



Anno 1637.

Affairs of  
Germany.

Whilst England, in regard to foreign affairs, enjoyed a perfect calm, whilst its subjects were totally engaged in making feeble defences against the vigorous attacks of the crown and hierarchy, Germany exhibited an active scene of a different nature. The authority the house of Austria had gained in that continent threatened the entire subversion of the free constitution of the empire; and was become so formidable to the neighboring potentates, that the house of Bourbon began to enter into deep and serious schemes for abating the

pole, in his Catalogue of Royal and Noble Authors, supposes, no method so easy or sure of recovering his own right, as to instruct the King how to usurp upon the rights of his subjects." Sir Robert Peyton avers, that the written project was taken out of the King's cabinet by a servant of the household, and carried to Carr earl of Somerset, who shewed it to the earl of Clare, Mr. St. John, and Mr. Selden.

The defendants denied their having any concern in the publication, and pleaded that they ought not to be questioned for it, being written in the time of king James, and not in reference to his majesty's government, which they had not the least thought or intention to scandalize.

Before the determination of the cause, Charles sent a message to the court to stop farther proceedings against the defendants, on account of the queen's being brought to-bed of a son: this happened on the twenty-ninth of May, 1630. The King rode with extraordinary pomp to St. Paul's, to give God thanks for the public blessing. A star happening at the same time to appear in a clear sky, the court-flatterers insisted much on the incident; medals were struck in honor of the prince's nativity, representing the star at his birth, and the following motto: *Hactenus Anglorum nulli*. Monarchical writers complain, that the people in general testified little joy on this occasion: they rather mourned the increase of a family which had shewn themselves such enemies to the freedom of the constitution, and the birth of a prince who would suck in superstition with his milk, and from education and example imbibe those principles of arrogance and tyranny which rendered his parents formidable to the peace of the kingdom. *Rushworth*, vol. II. p. 51, & seq. *Richard*, vol. II. p. 93. *Guthrie*, vol. III. p. 907, & seq.

growing

growing power of that rival family. The oppression of the Protestants raged with an exceeding violence\*: Ferdinand declared, that there should be none but Catholic magistrates through all his hereditary dominions. In the circle of Suabia, orders were given that they should be deprived of their possessions, and the Catholics reinstated in the goods of the church. In consequence of this mandate, the Protestant churches were shut up; the administration of the university of Prague vested in the hands of the Jesuits; the pastors of the reformed religion not only ordered to forbear the exercise of their faith, but to leave the country, and live in a perpetual banishment. The same severities were exercised in the town of Halberstadt. Wallenstein, the general of the Imperialists, was invested with the dukedoms of Mecklenburg, and a declaration published by the emperor against the legal possessors, accusing them of high-treason. The court of Vienna no longer dissembled its designs to suppress the Protestant religion, extinguish the liberties of the empire, and render the Imperial crown hereditary in the house of Austria. Wallenstein openly boasted, that the electors would soon be reduced to the condition of Spanish grandees. An edict was published at Vienna, commanding the Protestants to restore, without loss of time, the ecclesiastical benefices in their possession, particularly the archbishoprics, bishoprics, prelacies, hospitals, and all the other offices of the church, occupied by them since the treaty of Passaw in the year 1555.

Anno 1631.

Rushworth,  
vol. II. p. 36.  
& seq.

\* The Protestant married women of Bohemia were persecuted in an extraordinary manner. *Vide Harte's Life of Gustavus Adolphus*, 4to. 1759, vol. I. p. 121, & seq.



Anno 1631.

On this momentous occasion, the eyes of all men were fixed on Gustavus Adolphus, king of Sweden, whose warlike genius had rendered him the most distinguished monarch of that or any other age. He was at this time engaged in a war with the king of Poland. The kings of England and France joined their good offices to mediate a peace \*, in hopes of engaging Gustavus to undertake the defence of the liberties of Europe. From the persuasions of these princes, and the invitations of the German Protestants, Gustavus undertook the invasion of that country. The king of England agreed to furnish him with six thousand men; but, that he might preserve the appearance of neutrality, they were levied in the marquis of Hamilton's name.

During these secret negotiations, the emperor convoked a diet at Ratisbon, in order to prevail with the princes to elect his son king of the Romans. He had already invested him with the kingdom of Hungary and the crown of Bohemia, which he now considered as an indefeasible inheritance of the house of Austria. Ferdinand endeavored to vindicate himself from being the author of a war which had so long ravaged the empire, and laid the whole blame on the princes of the Evangelical league, but particularly on the Palsgrave. He proposed to the diet, to pass an act that he should continue a banished man, and that the princes there assembled should never entertain peace or amity with him. He then excused himself concerning his seizing the duchy of Mantua on the death of its prince, pretending that it was only to maintain the authority of the

Rushworth,  
vol. II. p.  
64, & seq.

\* A truce was agreed on for six years between Sweden and Poland. *Rushworth*, vol. II. p. 35.

empire in Italy. He proposed, that if a treaty then on foot, touching a difference between him and the king of Sweden, did not succeed, that the princes of the empire should provide money for maintaining a standing army; that they should take measures to restore martial discipline, to establish proper regulation for the quarters and passages of soldiers; and that the king of Sweden should be threatened with the whole power of the empire. In answer to these proposals, the princes electors laid open the grievances of the empire. The elector of Saxony, protector of the Augsburg Confession, pressed him to repeal his edict, restore the city of Augsburg to the fruition of its ancient liberty, and compel his officers to refund the contributions they had levied in almost all the provinces of the empire. His old ally, the elector of Bavaria, dreading the consequence of his growing greatness, had privately solicited cardinal Richlieu to undertake the defence of the liberties of the empire; and now declared, that the deliberations of that assembly could not be free whilst the emperor had an army of one hundred and fifty thousand men at his devotion. The greatest part of the Catholic princes exhorted him to divert the Protestants from an union with the king of Sweden, by granting to them, for a term of forty years, the enjoyment of the ecclesiastical benefices they had possessed since the treaty of Passaw. Farther they gave him to understand, that as a previous step towards the accomplishment of his son's election, it would be necessary to disband the greatest part of his troops, and take the command of his army from Wallenstein, to whose large commission, given without their consent, they attributed great part of the outrages and injuries they had suffered during



Anno 1637. during the course of the war. Ferdinand yielded to these remonstrances, dismissed Wallenstein from his service, obliged him to resign the investiture of the duchy of Mecklenburg, and retained, of all his army, but forty thousand troops.

On the meeting of this diet, Charles gave orders to Sir Robert Anstruther, his resident at the court of Denmark, to apply to the emperor in favor of the restitution of the elector-palatine to his dignity and patrimony. The ambassador pleaded, that nothing could affect his master more than the consideration of the daily calamities undergone by his brother-in-law, the prince elector, his wife and children; that no place was more expedient to treat of peace, reconciliation, and re-establishment, than in the diet: therefore he made it his ardent request to his Imperial majesty, that having regard to the many intercessions of his late father, and other kings and princes, he would remit the displeasure conceived against his brother, and recal the proscription issued out against him. True it was his brother had offended, and was inexcusably guilty, unless the rashness and precipitation of youth might somewhat plead for him; but others had been as culpable, whom yet his Imperial majesty had received into favor; and would he be pleased to extend to him the same clemency, it would oblige his master to demonstrations of the greatest gratitude, and raise a glorious emulation in others to imitate so excellent a pattern; that the Palsgrave would entertain his favor with a heart so firmly devoted to his service, so as all the intentions of his spirit should be disposed to compensation and reparation of his former miscarriages; that his majesty of Great Britain held nothing so dear as the affection of his Imperial

Imperial majesty, and establishment of a durable peace between them; and as upon all occasions he had been forward to represent himself solicitous for it, so at this time he was ready to give more ample testimony, if his Imperial majesty was pleased to incline to a treaty. The answer returned to this humble intercession was, that if the prince would ask pardon, renounce the crown of Bohemia for ever, and his own electorate for himself and his heirs, and enter into no farther intrigues, either with German princes or foreigners; on these conditions he promised, from motives of bounty and clemency, to restore to him part of a province, and allow him a pension. Frederic rejected these proposals with spirit, notwithstanding the king of England had given Amstruther powers to become responsible for his submission. Charles was so amused with the emperor's proposals, that it prevented him from entering into an avowed alliance with the king of Sweden, though he had taken some pains to bring that prince into Germany.

The Protestant princes, after the breaking-up of the diet, obtained leave to hold one for themselves at Leipstick, on pretence of concerting measures for an accommodation with the emperor touching the edict of restitution. The deliberations of this assembly turned upon the grievances of the empire. They unanimously resolved to levy an army of forty thousand men, and to form a standing council. They sent a declaration to the emperor, importing, that notwithstanding their resolution to raise troops, they should be perfectly well disposed to preserve the peace, if the grievances they complained of were redressed. After the conference at Leipstick, all parties prepared for hostilities.



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On the landing of Gustavus, he was immediately joined by the duke of Mecklenburg, and other Protestant princes. The Imperial troops were in a short time driven out of the island of Pomerania; and from this period a continued series of victory attended the arms of the Swedish hero. In an important battle fought at Leipfick, the experienced general Tilly and his army of veterans were totally defeated, by the valor of the Swedes, and the conduct of their leader. The affairs of the house of Austria began to grow desperate: Half of Germany was subdued by the victorious Swede; the duke of Saxony had made himself master of Bohemia; the landgrave of Hesse had cast himself on the side of the conqueror; and the duke of Bavaria was inclining towards the scale of success. In this turn of fortune, the emperor had again recourse to his old general Wallenstein, whom he incessantly pressed to resume his command; at length Wallenstein complied, and undertook to raise an army of eighty thousand men, provided that during his service he was sole and absolute, not to be commanded by the king of Hungary, the emperor's son, or directed by the councils of Vienna. This experienced officer soon changed the face of affairs: He recovered Egra, Prague, and all the kingdom of Bohemia. A battle was fought at Lutzen, between him and the Swedish monarch, who perished in the midst of the contest\*. To the almost singular honor and reputation of his troops, they obtained a complete victory, notwithstanding the loss of their leader.

\* Puffendorf, in his History of the Swedes, says, that Gustavus was killed by his ally, Francis-Albert duke of Lawenburg, who had been bribed by the Imperialists to commit this infamous act.

Some time after the battle of Lutzen, Wallenstein, by the dictates of the treacherous councils at Vienna, was privately proscribed by the emperor, and himself and four colonels under his command, who were particularly attached to his person, basely murdered at Egra. The bloody deed was perpetrated by some Scotch and Irish officers, the Germans and Italians having refused to imbrue their hands in their general's blood. After his death the emperor seized on all his effects. Thus he rewarded the man who had sacrificed every consideration to his service \*, and by whose military endowments he had been enabled to tyrannize over Germany.

Anno 1631.  
Harte's Life  
of Gustavus  
Adolphus  
vol. II. p.  
52.

By the sagacity and conduct of that distinguished politician Oxienstern, who governed the affairs of Sweden during the minority of their young queen Christina, the war was kept alive in Germany for seventeen years. The French contributed their assistance, and after the death of Gustavus openly declared war against the house of Austria. Notwithstanding a jealousy and division among the allies, a treaty of peace was concluded at Munster, much to the advantage of France, Sweden, and the Protestant interest; and to the great weakening of the power of the Austrian family.

The unhappy elector-palatine, foiled in every attempt to re-establish his broken fortune, had reaped no fruit from the uninterrupted series of success which had attended the king of Sweden. The manner in which the king of England had assisted him, rather disgusted than obliged this monarch. The British auxiliaries, commanded by Hamilton, in his own name, shewed Charles

\* Wallenstein had been bred a Protestant.



Anno 1631. either afraid or ashamed to espouse the cause of Liberty, and had cast a damp upon the Protestant interest. The States General refused to engage in the quarrel, unless the king of England would declare himself a contracting party; and the princes of Germany grew cold and reserved. Gustavus expostulated on this conduct, and required that the British monarch should send over ten thousand men, to be paid by himself as a party against the emperor: If this was agreed to, the marquis of Hamilton should be general in chief, and no peace concluded with the emperor till the elector-palatine was reinstated. Charles, instead of immediately closing with this advantageous proposal, sent over Sir Henry Vane to negotiate a treaty \*. He had been so long in determining the point, that Gustavus told his ambassador, it was too late to enter into engagements for the restitution of the Palatinate: He could not stipulate to make war upon Bavaria for the present, having just concluded a treaty with the French, by which they were to furnish him a yearly pension of one million two hundred thousand livres during the continuation of the league; he having, on his part, obliged himself to grant a neutrality to the duke of Bavaria: That his master had too long depended on the Spanish treaty, which was a fault had prejudiced the cause much. "If, added he, we had concluded before the arrival of the French ambassador, I could have attacked Bavaria, but I cannot undertake to war against

Rushworth,  
vol. II. p.  
131.

\* Sir Thomas Roe, who had been some time agent at Gustavus's court, was recalled, because he shewed himself forward and zealous for Charles's contributing a powerful assistance. Sir Henry Vane was sent in his place, as a man more inclined to peace, and whose opinions were more congruous to the king of England's councils.

the house of Austria, France, and the Catholic league." He afterwards proposed, that the king of England should furnish an addition of twelve thousand men, and twenty-five thousand pounds *per* month for their maintenance; that he should engage to enter into a war with Spain, if Sweden was attacked from that quarter; and moreover, that the Lutheran religion should be established in the Palatinate. On these conditions, he said, he would engage never to sheath his sword till the Palatinate should be re-conquered, and delivered to its lawful possessor. Gustavus moreover made it his request, that Frederic should repair immediately to the Swedish army, and march with it into his own dominions. These proposals were in a manner rejected by Sir Henry Vane. Gustavus, totally disgusted with the politics of Charles, whom he had so often in vain pressed with many arguments to furnish an effectual assistance\*; and, perhaps elated with that torrent of success which had attended his arms, in a farther conference with the ambassador, talked in the following high terms concerning the restitution of the Palatinate.

"That the Palsgrave should hold his dominions as a donative of the king of Sweden: Rushworth,  
vol. II. p.  
166.

"That he should make no martial levies without the Swede's consent:

\* At the end of a letter he wrote to inform Charles of his victory at Leipstick, he says, "We doubt not but you will receive the news of this victory with affection and joy; that you will consider the present opportunity as a circumstance not to be neglected, directing your whole attention to this single object, and making it your royal care to advance the good of the Christian world, and promote the welfare of your own relations, by assistances in men and money, and by unanimous resolutions." *Harle's Life of Gustavus*, vol. I. p. 412, & seq.



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“ That during this war he should furnish the Swede with so many thousand men upon his own pay :

“ That two of his chiefest towns should stand cautionaries for the performing covenants :

“ That he should make no league nor article with any other prince, without the Swede’s consent.”

Memoirs of  
the duke of  
Hamilton,  
fol. ed. 1677,  
p. 21.  
Harte’s Life  
of Gustavus,  
vol. I. p.  
357, & seq.

Sir Henry Vane proposed, on the part of the king of England, that Hamilton should have the complement of Swedish soldiers which had been first stipulated to him; that they should be paid with English money, and augmented with a body of troops from Great-Britain, which should make a large army, to be led by Hamilton into the Palatinate. Gustavus, who was now determined not to admit Charles but in the quality of a subordinate ally, rejected the proposal with disdain, and ordered the negotiations to be broke off. Sir Henry Vane and the marquis of Hamilton were recalled. What remained of the English troops, reduced to two regiments, were left behind, and continued to serve the king of Sweden.

Hamilton, by the concurrence of unfortunate accidents, had gained neither honor to the British arms, nor advantage to the king of Bohemia. On his interview with the king of Sweden, immediately before the battle of Leipfick, it was determined that he should guard Cuſtrin, Frankfort, Lauſberg, and the other passages on the Oder, that if a battle was lost the Swedes might make a safe retreat. On his arrival at Frankfort, the plague carried off one third of his army. After the battle of Leipfick, he was ordered to march into Silesia, with a reinforcement of two hundred horse, and three hundred foot. He relieved Croffen, surprized Guben, and was preparing

paring to attack Glogaw, when he received dispatches from the king of Sweden, informing him, that the elector of Saxony had undertaken the conquest of Silesia. Hamilton was commanded to march back again, through the same desolated countries he had left in Lower Saxony, in order to besiege Magdeburg\*, a well-fortified town, which had three thousand men in garrison. His army consisted of his British troops, now diminished to fifteen hundred men, three thousand German foot, and one thousand Swedish horse. Gustavus sent him a reinforcement under general Bannier, which increased the number of his forces to seven thousand men. Magdeburg, after having been reduced to great difficulties, was upon the point of capitulating, when the garrison was unexpectedly relieved with a recruit of thirteen hundred men; and Pappenheim, with a body of Imperial forces, was coming to its assistance. Hamilton strenuously insisted on fighting the enemy: Bannier differed in opinion, and produced a commission from Gustavus, appointing him general of the Swedes and Dutch in that army, together with orders not to hazard an engagement. Hamilton was forced to submit, and to draw off his troops from the town. Pappenheim carried off the garrison of Magdeburg, with all the rich effects which Tilly had brought together from the plunder of his victories. On his retreat, Hamilton took possession of Magdeburg. After this expedition, he got so little assistance from the king of Sweden, who was determined

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\* This place had been taken the year before by Tilly. The Imperialists committed execrable cruelties: The whole city was reduced to ashes, except the cathedral, and a few fishing huts on the banks of the Elbe. Above thirty thousand of the inhabitants perished in the carnage.



Anno 1632. not to indulge him with an independant command, that he was obliged to incorporate his remaining forces into the German troops; whilst he himself, till he was recalled, served as a volunteer under Gustavus \*.

\* This German expedition of Hamilton, which turned out so indifferently, had subjected him to a whimsical accusation of treason. From motives of resentment, either on the suspicious death of his father, whom, it was vulgarly noised, died by poison, or from hatred to Buckingham on another subject—the being forced to marry his niece by the countess of Denbigh—he had retired from court. In this private way of life he continued from the last year of James's reign till the death of Buckingham, when, by the repeated solicitations of Charles, he accepted the place of master of the horse, gentleman of the bed-chamber, and was made privy-counsellor of the kingdoms of Scotland and England. Soon after this, by the advice and direction of Charles, he entered into the forementioned engagements with the king of Sweden, for the levy of the stipulated contingency. Charles not only furnished him with a large sum of money, but granted him a lease of the customs of the wines in Scotland for sixteen years. These and other extraordinary marks of royal favor raised so much envy among the creatures of the court, that one Ramsey, a man employed by Hamilton in the business of levying soldiers, having talked to the lord Reay, a general officer in the Swedish service, in a loose unguarded manner concerning the tyrannical conduct of the British ministry towards the Puritans, with other expressions of distaste to the government, Reay pretended Ramsey had acquainted him, that the levies which were going on under the marquis of Hamilton were to be employed in asserting his claim to the crown of Scotland; that he was to be joined by the earls of Haddington, Roxburgh, and Buccleugh, who were to surprise the forts, imprison the royal family, and strike off the heads of the chief ministers, both in Scotland and England. This the lord Reay carried to the lord Ochiltree, the lord Ochiltree to Weston the high-treasurer, who magnified it in such a manner to the King, as to allege a probability that the marquis, if admitted into the King's bed-chamber, might murder him. Charles, who was not apt to entertain suspicions against his favorites, treated the matter slightly, admitted Hamilton to his presence, and disclosed to him in a very friendly manner the accusation which had been charged against

Thus Charles lost a fair opportunity of sharing Anno 1632.  
 the glories and the conquests of the king of Sweden, that prince having offered to wage war till the restitution of the Palatinate, if he would have avowed himself a party against the house of Austria. Unhappily for Charles, his ambition was entirely confined to the making himself despotic at home. Had he avoided all dissensions with his own subjects, he might, at this period, have rendered very important services to the Protestant cause, and not only have reinstated his brother-in-law in his former possessions, but added to them some of the Imperial spoils. The unfortunate Palsgrave, after a long series of disappointments, died at Mentz, a few months af-

against him. The marquis desired to be immediately tried, and offered himself to restraint till he was cleared. To this the King would not consent; and, as a farther mark of an extraordinary confidence, commanded him to lie in the bed-chamber that night. When Ramsey was called upon, he absolutely denied the conversation with which he was charged by Reay. There being no proof on either side, and the King being fond of every thing which was pompous, consented they should be permitted to clear themselves in the antient way of combat. A court of chivalry was erected, and Robert earl of Lindsey made, for the occasion, constable of England. The whole proceedings of the trial, the petitions and answers, with all the farcical solemnities used by this court, are entertaining; they may be found at length in Rushworth; but are too long, and of too trivial a nature, to be inserted here. A day was awarded for the combat. The champions mounted the stage \* in rich dresses: When the combatants were going to engage, the King's order interposed, and the business was stayed. A revocation of their letters-patent for trying this cause was brought to the lord-constable and marshal, and thus the affair ended. The lord Ochiltree was carried to Scotland, and after a trial for the part he had acted, he was condemned to perpetual imprisonment. *Burnet's Memoirs of the Duke of Hamilton*, p. 7. 10. 21, & seq. *Rushworth*, vol. II. p. 112, & seq. *Guthrie*, vol. III. p. 910, & seq.

\* Tothill-fields.

ter



Anno 1632. ter the battle of Lutzen. He followed Gustavus's fortunes, and had so great a reliance on his honor, as to depend on being restored to his territories by his means : He was so sanguine in this notion as to tell both Vane and Hamilton, that he believed he should spend his Christmas at Heidleberg, his capital. Nor was it without reason he relied on the honor of this illustrious prince : Gustavus had ever shewn himself sincere in all his professions, and open and candid in all his treaties. It is true he would not bind himself in any formal engagement with the king of England for the restitution of the Palatinate, because that monarch had continually refused to bear any part of the expence or hazard ; but Gustavus, in a conversation with Vane, declared, that though he was tender of promising one iota more than he could perform, yet he would at all events discharge the duties of a man of honor, and reserve to himself the glory of executing more than he had promised. He solicited strongly the French king to co-operate with him in restoring the Palatine ; and alleged, that his ancestors had supported Henry IV. against the enemies of the house of Bourbon. He afterwards took Frederic under his immediate protection, when the king of England had relinquished his interest, and gave him as magnificent a reception as if he had been in possession of the crown of Bohemia. The news of Gustavus's death was such an affliction to this unfortunate prince, that it at once put an end to his hopes and his life. After his decease, Charles invited the queen of Bohemia, with her family, to reside at his court : She excused herself on the account of her great grief, which rendered her incapable of taking a long journey. Some time before this, Sir Henry Vane

Harte's Life  
of Gustavus  
Adolphus,  
vol. II. p.  
108.

Vane had been instructed to set before her, in the strongest colors, the expediency of permitting her eldest son to be bred a Papist in the court of Vienna, with a view to match him with one of the daughters of the house of Austria. To this proposal, it is said, the queen made the following resolute reply: "That rather than be guilty of so irreligious and mean a condescension, she would be her son's executioner."

Besides the auxiliaries which Charles had sent into Germany, he gave the emperor of Muscovy leave to raise a regiment of two thousand men, to be employed against the Poles. The emperor's design was against Smolenskø. Whilst dispositions were making for the attack, Sanderfon, the commander of the British troops, was murdered in the trenches by one Lesley\*, a Scotchman. The Poles taking advantage of the distraction which this accident occasioned, fell upon the enemy, and put them to a total rout. The Muscovite was constrained to accept of a peace upon very dishonourable terms†.

To return to the affairs of England: Charles and his prime minister, Laud, continued to indulge themselves in the exercise of an unlimited power. Proclamations supplied the defects of

Rushworth,  
vol. II. p.  
184, & seq.

Proclamations.

\* Lesley was sent over a prisoner into England, but escaped justice because he could not be tried for a murder committed in a foreign country. He returned to Muscovy, where, for suspicion of treason, he was thrown from the top of a tower on sharp spikes; and in that torture endured a lingering death. *Rushworth*, vol. II. p. 185.

† After the Russian general returned home, he had his head cut off. His son, the lieutenant-general, was whipped to death, and his family banished into the country of Siberia, there to catch fables for the emperor's profit. *Rushworth*, vol. II. p. 185.

law,



Anno 1633. law \*, and the High-commission court persecuted as Puritans all who refused to submit to despotic

\* All things relative to the civil government of the country were settled by proclamations. The unbounded power the King exercised in this particular, was in effect that of taxation. The sale of tobacco was restrained by proclamation: this produced from all the towns and villages in England a certain price for a licence to sell the prohibited drug; and a considerable revenue was extorted from the subject.

The lord-treasurer Portland had insisted with the vintners, that they should submit to a tax of a penny per quart upon all the wine which they retailed. On their refusal, a decree was made in the Star-chamber, forbidding them to sell or dress victuals in their houses. To compound this matter, they were obliged to give the King six thousand pounds, and submit to pay half the duty which was demanded of them. After this the vintners, for a rent of thirty thousand pounds per year to the King, obtained a licence to raise wines one penny and two pence per quart more than they were usually sold at.

A proclamation declared, that no hackney coaches should be suffered, and that no person should go in any kind of coach in the streets of London and Westminster, except the owner of the coach constantly kept four able horses fit for his majesty's service whensoever his majesty's occasions should require, upon pain of his majesty's high displeasure and indignation, and such pains and penalties as might be inflicted for the contempt of his majesty's royal commands.

Commissioners were appointed to make a certificate to the council-board, or in the court of Star-chamber, of those who, contrary to former proclamations, had enlarged the city of London by new buildings, or had divided houses into several dwellings: five hundred pounds and two thousand pounds fines were set on those transgressors against the letter of the proclamations, though they had taken the precaution to procure licences.

Ray, having transported fullers-earth, contrary to a proclamation, was fined in the Star-chamber two thousand pounds, and set in the pillory. Like fines were levied on Terry, Eman, and others, for disobeying one which forbade the exportation of gold.

Lords, gentlemen, clergymen and others, whose stay in London was not absolutely necessary, were ordered to reside in their respective counties. An information was lodged in the Star-chamber against several hundreds of people of quality and fortune, for that they had unlawfully agreed together  
how

government. This drove many who were well affected to the Church of England into the necessity of siding with that party, to enable them to oppose the arbitrary measures of the court; and Puritanism, notwithstanding the endeavors of the church and King, daily gained ground. The Presbyterians, to strengthen themselves against the designs of their enemies, had entered into a project to set up stipendiary lectures in several market-towns, and had raised a stock to buy in such impropriations as were remaining in the hands of the laity. A society was established, under the title of Feoffees for buying-in impropriations to be bestowed on preaching ministers. Twelve popular and religious men were erected into a kind of corporation to manage this business; and the scheme received so much encouragement and applause, that the jealousy of Laud was at length roused. The feoffees were prosecuted by Noy, the attorney-general in the court of Exchequer,

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how they might withstand his majesty's proclamation, and royal pleasure therein expressed.

An order was sent to the justices of the peace to present all noblemen, who had not particular leave of the King, who should be found in town; and to imprison all gentlemen. This was inflicted on one Palmer, who was committed to the Fleet, and fined one thousand pounds.

There were more reasons than one for prohibiting people of fortune to resort to town: The oppressions of the times were become, in every social meeting, the universal topic of conversation.

All the subjects likewise were forbid to depart the realm, without licence from the King, or six of his privy-counsellors.

There had been many of these kinds of proclamations in the last reign. This was so far from being an acknowledged prerogative of the crown, that by a temporary act of parliament it was granted to Henry VIII. with a saving the lives and properties of the subject. The act was repealed in Edward VI.'s time *Rymer. Strafford's Letters. Rusworth*, vol. III. *Appendix*, p. 51.

under



Anno 1633. under pretence that they usurped upon the King's regality. The feoffment was condemned; the impropriations purchased confiscated to the King's use; and the merits of the cause referred to a farther censure in the Star-chamber. New formalities were continually suggested by Laud, and approved by the King: A form of divine service was introduced in the superstitious, whimsical ceremony of performing the cure of scrophulous diseases by the royal touch. With these fantastical novelties, more important encroachments marked the potent influence of this arrogant prelate. The following questions were proposed to the judges concerning the liberties and exemptions of the clergy: "Whether clergymen were bound to find watch and ward day or night? whether clergymen might be compelled to take apprentices by the statutes of the poor?" To the first of these interrogatories the judges did not think fit to give a positive answer, but desired leave to inform themselves of the practice of the several counties of England. To the second they agreed, that no man was expressly out of the statute; but there was a discretion in that point to be used by the justices of the peace.

Complete  
Hist. of  
England, vol.  
III. p. 60.

Acts of  
power.

Rym. Fœd.  
vol. XIX.  
p. 280, & seq.

Among the exertions of absolute sovereignty recorded in the transactions of this reign, there is one of an enormous nature, unnoticed by historians. A commission was granted to the archbishop of Canterbury, and the other members of the privy-council, for regulating the jurisdiction of the courts of justice. These commissioners were to examine all questions, controversies, and debates, arising about the jurisdiction of the courts ecclesiastical and civil. They were constituted with powers to call before them, as often as they chose, any of the judges of the said courts, or parties

parties contending; to examine upon oath the officers and clerks; to hear and debate the questions and causes; to consider and advise on the subject; and then to lay before the King the said considerations, that he might determine by his authority the matter in dispute \*.

The earl of Warwick, taking no notice of a commission of this sort, which had been given to determine on appeals from the court of Admiralty, appealed, on a judgment of this court, to the court of Chancery. This produced an order, that the earl of Warwick's cause should be heard and judged by the commissioners who had been appointed by the crown for the purpose of determining on the aforesaid appeals.

Rym. Fœd.  
vol. XIX.  
p. 300.

## C H A P. III.

*The King's journey to Scotland.——Transactions there.  
——Death of Abbot.——Advancement of Laud.——  
His schemes and arbitrary proceedings.——Prosecution of Prynne.——Wentworth's behavior as president of the council of York, and deputy of Ireland.——Affairs of that country.——Project of ship-money.——Death of Sir Edward Coke.——  
Scheme of a reconciliation with the church of Rome.——Impositions.*

CHARLES had ruled England four years despotically; that is, had exercised by his single authority every act of legislation. He had not only usurped the power of raising money with-

\* In the preamble to this extraordinary commission the King asserts, that the sovereignty of justice was entirely in him by virtue of his kingly office; that for the ease and benefit of the subject it was dispensed and limited to other persons and courts, according to such orders as have been approved and established



Anno 1633. out consent of the people; cancelled the right of property in the business of the feoffees; imposed, by the judgment of his Star-chamber, rigorous and arbitrary penalties on offences not legally punishable: He had not only dispensed with confirmed statutes, but his proclamations were considered by the ministry as so many new ones; the breach of which was as severely punished as was the breach of the established laws of the realm. Notwithstanding an usurpation so violent and unnatural, the people, who have a kind of dread and reverence for established power, though unsupported by an adequate force, and being deprived of the protection of their representatives in parliament, legally invested with authority to oppose openly and boldly the usurpations of the crown, had in a manner seemingly submitted to the yoke of servitude. Though discontent sat visible on the public brow, yet there was no likelihood of its ripening into a civil commotion. Charles had not only freed himself from the expence of war, but had recruited his coffers with the pillage of his people. The venal tribe which surrounded him flattered him on the prospect of his affairs, on his principles of government; and instilled into him the pernicious notion, that though some turbulent individuals might complain, yet the people in general found themselves easy and happy under his administration. In this sunshine of his fortune, he undertook a journey to his kingdom of Scotland. Two important objects, besides the singular plea-

ed by antient custom and law, or as the King had, or should think fit to direct and appoint: "Which power, says the preamble, is not only our undoubted and hereditary right by our royal prerogative, but also agreeable to the practice of our royal progenitors in this our kingdom, and to the equity and true intention of our laws."

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ture of a coronation, excited him to this expedition: to get money of a parliament, and to reduce the kirk of Scotland to a perfect conformity to his plan of church-government. In the year 1621, James, by the increase of the power he had gained on succeeding to the crown of England, found means to restore episcopacy in Scotland, and give to bishops their ancient jurisdiction over the church. Charles was determined to render them powerful; and to this purpose entered into a design of resuming all the churchlands which had been granted during his father's minority. He bought the abbey of Aberbroth, and the lordship of Glasgow, from the families of Hamilton and Lenox, and added them to the two archbishoprics. Burnet relates, that in the third year of his reign, the earl of Nithsdale\* was not only sent down with a power to receive the surrender of those who would willingly pay this extraordinary compliment, but to assure others, that the King would take rough courses if they did not submit their rights to his disposal. The alarm which arose on the report of this intention occasioned such a heat, that Nithsdale was deterred from opening his instructions, and the attempt was retarded for some time.

Burnet's  
Hist. of his  
own Times,  
fol. ed. 1724,  
vol. I p. 20,  
& seq.

Charles, having hitherto carried things with an high and successful hand in England, and, spurred on by the impatient Laud, who looked upon all moderation as a betraying the dignity of the church, now determined to attempt in his own person certain points necessary to establish ecclesiastical matters on the true hierarchical principles in Scotland.

\* The earl of Nithsdale had married a niece of the duke of Buckingham. He was at this time believed a Papist, and before his death professed himself one. Burnet, vol. I. p. 20.



Anno 1633.  
The King's  
journey to  
Scotland.  
Rushworth,  
vol. II. p.  
178, & seq.

The parade of majesty was not neglected on this important occasion. The King was attended by the prime of the English nobility, who vied with each other in the shew of equipage. The same absurd emulation took place among the Scots. The creatures and dependents of the court feasted the King so sumptuously during his progress, that it is said the earl of Newcastle expended on the occasion several thousand pounds. Though the journey was commenced May the thirteenth, it was not till the fifteenth of June that Charles reached Edinburgh. His entry and coronation were managed with such profusion, and ornamented with such costly pageantry, that the whole country felt the importance of their visitor. Laud, the director of the king's conscience, was not forgotten: He was made a privy-counsellor of Scotland the very first day of the King's arrival at Edinburgh, and was so arrogantly officious at the ceremony of the coronation, that Lindsey, the archbishop of Glasgow, through moderation having avoided the putting on the gaudy robes of his order\*, Laud forcibly thrust him from his place at the King's left-hand, and supplied it with Maxwell bishop of Ross, saying, "Are you a churchman, and want the coat of your order?" The whole conduct of the intended reformation was intrusted to this imprudent zealot, who acquired such an influence over the Scotch bishops, that they flung off their former moderation, and not only adopted his principles, but his violent measures. All the vacant church-preferments were filled up with his own creatures. Edinburgh was erected into an episcopal see; and one Forbes, whose religious

\* The robes of his order were embroidered. *Rushworth*, vol. II. p. 182.

opinions were little short of Popery, appointed Anno 1633. the first bishop.

The parliament of Scotland was not only munificent in their grants to the King \*, but complimented him with passing every act which he proposed, two only excepted. The first was, the regal prerogative established as it had been asserted by a statute made in the year 1606: to this an addition was made of another act passed in the year 1609, giving the crown a power of prescribing habits to ecclesiastics. The second was a resumption of those church-lands and tythes which had been alienated in the minority of the former reign. The majority of the nobility and commoners who composed the parliament† agreed to all which the first act contained relating to the King's prerogative asserted in the statute of 1606; but dissented from his power of imposing upon ecclesiastics their habits; and desired that the acts might be divided. Charles, who was present at the debate, pulled out of his pocket a list of all the members who composed the house, and insisting that the two acts should not be disjoined, added, "Gentlemen, I have all your names on this paper, and I will know who will do me service, who will not, this day." Notwithstanding the King's impetuosity, the bill was rejected by the major part of the assembly; but the clerk of the register, who gathered the votes, removed this difficulty by declaring that it was carried in the affirmative. The earl of Rothes as-

Transactions there.

Franklyn's Annals, p. 432, & seq. Guthrie's General Hist. of Eng. vol. III. p. 919.

Rushworth, vol. II. p. 183. Burnet, vol. I. p. 21, & seq.

\* Concerning the grant given by the parliament, Charles thus expresses himself: "He was pleased to accept of it as the mite of their humble affection, in testimony of their thankful gratitude for so great a blessing as the personal presence of us, their sacred lord and sovereign. *State Trials*, vol. I. p. 409.

† The King, Nobility, and Commons sit together, and make but one house.



Anno 1633. ferted the contrary; but the King took up the matter, and insisted that the clerk of the register's declaration should be held good, unless the earl of Rothes would go to the bar, and accuse him of falsifying a record of parliament\*, which was punishable by death; and the earl of Rothes, if he had failed in the proof, was liable to the same penalty. He did not chuse to venture on the dangerous accusation, and the King carried his point. This outrage on the most important point of the constitution, in that solemn seat of justice the senate-house, in the face of the whole people assembled in their representative body, made the nation conclude that all their liberties were subverted; that a parliament was become a piece of idle pageantry, since it was in the power of a corrupt individual, the clerk, to declare and determine the majority of votes. This was not the only instance which Charles shewed the Scots of his arbitrary, violent disposition. Hague, who, though the King's solicitor, was zealous for the freedom of his country, drew up a paper, setting forth the public grievances, and particularly what related to the transactions in the last parliament. This was to be signed by the anti-ministerial lords, and by them presented to the King. The earl of Rothes, from a motive of court-complaisance, gave it Charles to peruse, before it was to be presented in form. Charles, having read the paper, returned it, saying, "No more of this, my lord, I command you†." This

Bishop Guthrie's Memoirs, 8vo. ed 1702, p. 9, & seq.

\* Burnet relates, that the King knew the bill was rejected by the majority, for he had called for a list of the members, and had marked every man's vote.

† The King at the same time rejected a petition, presented to him by several ministers, setting forth the disorders and innovations which had crept into the church. *Russworth*, vol. III. *Appendix*, p. 143.

autho-

authoritative expression so intimidated the party, Anno 1633. that they dropt the business. Balmerino suffered it to remain some time in the possession of one Dunmoor, a lawyer : it fell into the archbishop of St. Andrew's hands, who carried it immediately to the king. Balmerino acknowledged, that he was in possession of the original draught. There was a law in Scotland which made it high-treason to spread lies of the King or his government, commonly called *leaseing-making*. This law was enforced by a statute made in the late King's time ; and the severity of it increased by an addition, that it should be likewise treason to know of any who did it, without specifying the nature of those lies. The words of the act were so general, that it was as bad as the *lese majestatis* among the enslaved Romans ; that engine with which Tiberius rooted up the remaining virtue in Rome. This law, which prevents all suggestions against an administration, however badly exercised, rendered the legal constitution of Scotland an absolute tyranny, without other redress than from the native spirit of the people, which, when roused and provoked beyond the bounds of manly suffering, often had recourse to natural justice, by assembling in bodies, and executing those statesmen, judges, or juries, from whom they had received injuries. Balmerino's offence was thought within the forementioned statute : An order was sent for his commitment, and a special commission came down for his trial : He was prosecuted for high-treason, and condemned to die \*. The malevolence of the prosecution,

\* Charles let slip no opportunity of teaching his subjects their duty to majesty ; and in these documents he always supposes himself invested with absolute sovereignty. In his charge against Balmerino there is the following passage : " In



Anno 1633. and the injustice of the sentence, were so highly resented by the Scots, that they had associated

so far as albeit by the law of God, and laws of all nations, the person of the supreme and sovereign prince is and ought to be sacred and inviolable, and he ought to be revered, honored, and feared, as God's lieutenant on earth; and that all subjects are bound and tied in conscience to content themselves in humble submission to obey and reverence the person, laws, and authority, of their supreme sovereign." The whole charge is in so peculiar a style, that it is worth perusal.

The substance of Burnet's account of Balmerino's trial is as follows. In Scotland there is a court for the trial of peers, distinct from the jury, who are to be fifteen, and the majority determine the verdict: the fact is only referred to the jury, the law is judged by the court. If the majority of the jury are peers, the rest may be gentlemen. The earl of Traquair, the present lord-treasurer, was thought the most capable man for business, and the best speaker in the kingdom. He was charged with the lord Balmerino's trial. Hague owned himself the author of the petition, and withdrew into Holland. In the naming the judges, there appeared a design to have the lord Balmerino's life, for they were very weak or very poor. Much pains were taken to get a jury of the proper complection. It was long considered, on what the prisoner should be tried: His hand interlining the paper, plainly softening the matter, was not thought evidence that he drew it, or was necessary to it, and they had no other proof against him; nor could they from that infer that he was the divulger, since it appeared it was only shewn by him to a lawyer for counsel; so it was settled to insist, that the paper tended to alienate the subject from their duty to the King, and that he, knowing who was the author, did not discover him. The lord Balmerino pleaded, that the statute for discovery had never been put in execution; that it could never be meant but of matters which were notoriously seditious; that till the court judged so he did not take the paper to be of that nature, but considered it as full of duty, designed to set himself and some others right in the King's opinion; that he communicated the matter to the earl of Rothes, who told the King of the design; and that upon the King's saying he would receive no such petition, it was quite laid aside. A long debate had been much insisted on, whether the earl of Traquair, or the King's ministers, might be of the jury or not? the court gave it in his favor. When they were shut up, Gordon of Bucky, who forty-three years before had assisted in the murder of the earl of

to execute justice after the old Scotch fashion, Anno 1633.  
and to cut in pieces the judges and the eight

of Murray, and was thought on this occasion to be a sure man, excused his presumption in being the first who broke silence, but desired they would all consider what they were about; it was a matter of blood, and they would feel the weight of it as long as they lived: he had in his youth been drawn in to shed blood, for which he had the King's pardon, but it cost him more to obtain God's pardon; it had given him many sorrowful hours, both day and night. As he spoke this, the tears ran down his face; a sudden damp was struck on the assembly: but the earl of Traquair taking up the argument, said, they had it not before them whether the law was a hard law or not, nor had they the nature of that paper before them which was judged by the court to be leasing-making; they were only to consider whether the prisoner had discovered the contriver of that paper or not. Upon this, the earl of Lauderdale, who, though a professed enemy to the lord Balmerino, took up the argument against what the earl of Traquair had urged, said, that severe laws never executed were looked on only to terrify; that though after the court had judged the paper to be seditious, it would be capital to conceal the author, yet, before such judgment, the thing could not be thought so evident that the party was bound to reveal it. On these heads the matter was debated many hours; but when it came to the vote, Balmerino was cast by one. This occasioned such a general dissatisfaction, that it was resolved to force the prison to set him at liberty; and if that failed, to revenge his death both on the court and the eight jurors. The earl of Traquair gave the King to understand, that the lord Balmerino's life was in his power, but that the execution was in no sort advisable, and thus procured his pardon. "My father, continues the author of this account, knew the whole steps of this matter, having been the earl of Lauderdale's most particular friend. He often told me, that the ruin of the King's affairs in Scotland was in a great measure owing to that prosecution.

The manner in which the lord Balmerino's life was put into the hands of the court, would singly be a sufficient example of the importance of that privilege which the constitution of England gives to its subjects; viz. That the jury, composed of men of an equal condition with the person prosecuted, are judges as well of the law as the fact. This may be pronounced the great bulwark which defends the life, property, and personal freedom, of every English subject from the exorbitant



Anno 1633. jurors. Charles was on this account obliged to grant Balmerino a pardon.

Notwithstanding the cordial reception the King had received from his countrymen, yet the aversion he had shewn to innovations in their religious worship, or to any extension of the royal prerogative, gave such a distaste, that immediately after the dissolution of the parliament Charles posted in all haste out of Scotland. The non-conformists had been treated with so unfavorable an aspect, that when the provosts of Stirling and Linlithgow, each of them, presented the King with a piece of plate, one of them, being a Presbyterian, was not admitted to kiss his hands. The nobility and gentry of Fife had proposed a magnificent entertainment for him; but the greatest part of them being Presbyterians, he took another road to avoid accepting their intended civility.

Whilst the king was thus venting his disgust in these childish expressions of resentment, Laud was appointed to preach in the royal chapel, which had been fitted up and ornamented according to his own directions, where he made violent declamations in favor of conformity to religious discipline and ceremonies. Charles, before he left Scotland, created the archbishop of St. Andrew's chancellor of the kingdom \*, and

exertions of monarchical power. May this important consideration have its due weight with the public! May no plausible orations from a time-serving judge seduce an English jury to give up, on any occasion, a right on which alone their own security, the security of their fellow-citizens, the security of their posterity, so evidently depend! *State Trials*, vol. I. p. 407, & seq. *Burnet*, fol. ed. London, 1724, p. 22, & seq.

\* This office had never been in the hands of a churchman, since the pope's authority had been suppressed in Scotland. *Clarendon*, vol. I. p. 67.

admitted

Rushworth,  
vol. II. p.  
183, &  
seq.

admitted several prelates to seats in the privy-council, and in the college of justice. Thus the Scots, could they have had any doubt of the King's inclination, were by this conduct thoroughly convinced that material alterations were intended in their church-government\*.

The first step which he took on his return to England was to appoint Laud to the metropolitical dignity of the see of Canterbury. The death of the pious, learned, and moderate prelate, George Abbot, happened on the fourth of August, this year. He was singular for preserving his honesty, and some small degree of dignity; though a courtier, was never excessively fond of power, or desirous of carrying the prerogatives of the church to any extraordinary height; this prudent moderation drew upon him many malevolent reflections from several bigotted historians of his own time. Among these, Heylin, a creature of Laud, taxes him with want of benevolence, when nevertheless this good archbishop was eminent for a munificent hospitality †, and a well-di-

Death of  
Abbot.

His cha-  
racter.

Biographia.  
Britannica.  
fol.ed. 1747.  
vol. I. note,  
p. 16.

\* The courtiers had been at great pains to have it believed in England, that those Scots who had received favors from Charles and his father were men of the greatest interest in their country; but the English who attended Charles in this journey, and who were willing to know the real strength of his party, quickly perceived the falshood of this suggestion. They saw the Scots in general behave with great contempt towards the royal favorites of their own nation; and that the men of weight were in an interest against the court. This produced the foundation of a correspondence between the principal men of the two kingdoms. Charles appeared to be sensible of this; it was the occasion of his quick return into England. *Guthrie*, vol. III. p. 909.

† He had been reproached by some of the high-church party for this virtue, that he lived too high, had too much company, and became thereby too popular. *Rusworth*, vol. I. p. 454.

rected



Anno 1633. rected charity. The true incentives to this, and other unjust and acrimonious aspersions, are, that Abbot had ever opposed the preferring Laud, on account of his furious opinions, had sometimes screened the non-conformists from unjust and illegal prosecutions, and lastly, endeavored to establish, as a fundamental principle in ecclesiastical concerns, that the clergy should attract the reverence of the laity by the sanctity of their manners, and the uprightness of their morals, rather than to claim it as a prerogative due to their function.

Advance-  
ment of  
Laud.

His schemes  
and arbitrary  
proceedings.

Laud, now raised to the highest dignity in the church, was enabled to enforce with rigor that ecclesiastical discipline which he could not fully establish during the life of his worthy predecessor\*. Very exceptionable orders were sent into Scotland, as a prelude to a general reformation†. In England, arbitrary oaths were imposed by the bishops on the church-wardens, who were to dilate any one who acted contrary to the articles which were enforced by authority‡.

\* The non-conforming divines, having lost in Abbot all protection from the fury of Laud, fled into Holland, into New-England, and other colonies. *Prynne's Trial of Laud*, p. 361, & seq.

† For these instructions *vide Rushworth*, vol. II. p. 206. An article relative to the coronation-service, gives rise to a suspicion that Laud had been altering, or adding to, the form of that ceremony, as he had before done in England.

‡ The following are some of the articles prescribed by Mountague bishop of Chichester, and Wren bishop of Norwich, at their several visitations.

Has your chancel ascents up to the altar? Have you two fair surplices, that no point of divine service may be done but in ministerial vestments? Do your parishioners uncover their heads, sit bare all service-time, bowing towards the chancel and communion-table, and use those several postures which fit the several acts and parts of divine service? Do they stand also at the reading of the Gospel, and bend or bow at the glorious,

Farther, to exclude Presbyterians from getting into the church, and render ministers more

Anno 1633.

glorious, sacred, and sweet name of Jesus? Does your minister read the second or latter service at the communion-table? Is the grave made East and West? Is the body buried with the head to the West? Doth any married woman neglect, after child-bearing, to come to church to give thanks? Doth she come veiled in a decent manner, kneeling nigh to the communion-table? Are all the pews and seats in the church so ordered, that all they who are in them kneel down with their faces towards the East? At the end of every psalm do they stand and say, "Glory be to the Father, &c.?" Have you in your parish any who do not reverently behave themselves entering into the church; that is, by bowing towards the altar? Does your minister perform all the services of the church in his surplice, and never omit the wearing of the same, or of his hood if he be a graduate? Among other injunctions, the communicants were to come up and receive the sacrament at the new rails, kneeling.

The following is a copy of the oath administered to the church-wardens.

"That you shall duly consider, and diligently enquire of all and every of these articles given you in charge, and tendered unto you; and that all affection, favor, malice, hatred, hope or reward, gain, displeasure of great men, malice, or other sinister respect, set aside, you shall faithfully discharge your duty, and truly present all and every such person of and in your parish as hath made any default, or committed any offence in or against those articles, or that be vehemently suspected or defamed of any such offence or crime; wherein you shall deal uprightly, truly, and fully, presenting all the truth, and nothing but the truth, without partiality, having God before your eyes, and an earnest Christian zeal to maintain truth, order, and religion, and to suppress the contrary. So help you God, and the contents of this book."

At this time all lectures and sermons were in a manner suppressed; even the ministers who enlarged on the questions and answers in the catechism, were sharply removed and enjoined penance for the offence: so fearful were the prelates lest the people should exert their right of reasoning in matters of religion. Of one Leigh, a prebend of the church and college of Wolverhampton in the diocese of Litchfield, Laud writes thus: "If you can fasten any thing upon him whereby he may be justly censured, pray see it be done, and home; or bring him to the High commission court, to answer it there."



Anno 1633. dependent on the bishop, strict rules were made, whereby no lecturer whatever was admitted to be a canonical title. All ordination of ministers to supply lectures was totally excluded, nor any chaplainship to a nobleman's family allowed to be a sufficient title. By this means new inter-rogations were introduced, and orders denied in case of dissent: Such as, whether the church had authority in matters of faith? whether bowing towards the altar at approaching it, or at coming in, or going out of the church, &c. were commendable \*?

there. But however, let him not obtain any licence to preach any lecture there, or in another exempt place hard by (Tettenhall), whither those of Wolverhampton do now run after him out of their parish.—For the church hath not much need of such men.” *Prynne's Trial of Laud*, p. 93, & seq. p. 278, & seq.

\* The communion-table of St. Gregory's having been, by the dean and chapter of St. Paul's, removed from the middle of the chancel, and placed altar-wise, the parishioners, in an appeal to the court of arches, complained of the innovation, and pleaded that the book of Common Prayer, and the eighty-two canons, gave liberty to place the communion-table where it might stand with most convenience; that by a general custom it had been determined towards the body of the church, or the bottom of the chancel. Laud brought this question before the King and council. The King declared, that he well approved and confirmed the act, and required it to be confirmed by the dean of the arches, if the parishioners should proceed in their appeal. The council for the parish having quoted bishop Jewel, and other divines, (whose books were enjoined to be kept in all churches for the perusal of the people) that the communion-table ought to stand in the middle of the church, archbishop Laud got up in a fury, and said, “If this be the use they make of these books, Jewel and Fox, I desire they may be taken out of churches.” The decree of the council concerning St. Gregory's declares, that all churches ought to be guided by the cathedral mother church. These kind of innovations occasioned the like disputes to arise in many parishes. The archbishop gave particular directions to the archdeacon of Canterbury, that within that city all galleries and raised seats which were level to  
the

In the year 1627, according to an act which had passed in the first parliament of Charles's reign, chief-baron Walter, and Denham one of the puisne barons of the court of Exchequer, made an order at the summer-assizes held at Exon, for suppressing all revels, which had been used upon the Sunday, requiring the justices of the peace to see the same put into execution; and that every minister in his parish-church should read the said order yearly, on the first Sunday in February. Richardson, the chief-justice of

Anno 1633.

Heylin, p.  
255, & seq.  
Rushworth,  
vol. II. p.  
191, & seq.

Prynne's  
Trial of  
Laud, p.  
128, & seq.

the high altar, should be taken down. His brother prelates, whom he had raised for this purpose, were no less assiduous in their dioceses. The church-wardens of Beckington in Somersetshire were excommunicated by the bishop of Bath and Wells, for refusing to remove and rail in the communion-table, and pull down the seat which stood above at the East-end of the church. Having been excommunicated a whole year, they were imprisoned in the common gaol; where after laying a long time, they were at length released, on their public submission and repentance, acknowledging, that they had grievously offended the divine majesty of Almighty God, and the laws ecclesiastical of the realm of England, in not having obeyed the command of their right reverend father in God the lord-bishop of Bath and Wells. The churchwardens of other parishes being prosecuted in the same manner, were obliged to fly into New-England. It would be tedious to relate all the examples of a like nature which happened on the opposition these innovations met with. Several ministers were suspended and imprisoned, and enjoined submission and recantation. Hundreds of scrupulous people were excommunicated in almost every diocese in England, for refusing to receive the sacrament at the new rails. Ministers were persecuted in the High-commission court, for administering the sacrament to some of these conscientious people. Notwithstanding the extreme rigor with which this ceremony was exacted, bishop Mountague, in a letter to Laud, owns, that he knew of no law, article, advertisement, canon, or injunction, which required it; nor could he tell where or by whom it came up, only that it was the practice of the Roman church, at least in Italy and Rome. *Prynne's Trial of Laud*, p. 89, & seq. p. 96, & seq.

the



Anno 1633. the King's Bench, on being importuned with many enormities which had happened at country-feasts, made, at the Lent-affizes in the county of Exon, a severe order against all wakes and revels, according to a statute which had passed in the fifth and sixth of Edward VI. This was represented as a suppressing of religious ceremonies; such as feasts of dedication, enjoined by former popes; and if the people should be deprived of these recreations, they would either go into conventicles, or into tippling-houses, and talk of matters of the church and state. Laud took fire, and complained to the King, that an encroachment was made on the ecclesiastical power, in imposing on men in holy orders the publishing warrants and commands from the secular judges. On this complaint, Richardson was commanded to revoke his order: He, knowing that he was obeying the dictates of two confirmed statutes, disregarded the injunction, and at the next affizes published the same in a more peremptory manner than before. On this he was commanded to appear before the council; where he was so roughly treated for his former contempt by archbishop Laud, that on his dismissal he complained that he had been almost choaked with a pair of lawn sleeves. He was directed to revoke his order, which he did in the following manner: That he was commanded by his majesty to repeal his former order; which being warranted by so many precedents, he conceived he had no power absolutely to reverse, but he did, as much as in him lay, revoke it. This produced a petition, signed by all the justices of the peace upon the bench, desiring leave to suppress unlawful assemblies. Laud engaged the King to ratify a former declaration made by his father, which revived

vived and enjoined the observation of wakes and feasts of dedication, and licenced sports on the Lord's Day. This ratification was contrary to the express purport and words of the fore-mentioned act, and was so adverse to the prevailing opinions of the age \*, that it occasioned a greater murmuring than almost any other illicit exertion of power which had happened in this reign †.

The Dutch, the Walloons, and the French, who had taken refuge in England from that torrent of persecution which deluged almost every other part of Europe during the sixteenth century, had obtained from former kings the liberty of celebrating divine service after their own manner. Laud was now determined to deprive them of that privilege: Having previously obtained the consent of the King and council, he summoned their ministers to appear before his vicar-general, who delivered them two injunctions. First, that all the natives of the Dutch and Walloon congregations in his grace's diocese, should repair to those several parish-churches

Rushworth,  
vol. II. p.  
272, & seq.  
Heylin, p.  
276, & seq.

\* Charles paid so little attention to the opinion of the public in regard to keeping Sunday, that civil affairs were usually debated at the council-table; and that day was allotted for masks, plays, and such other amusements, contrary to a statute enacted in the first of his reign. *Hist of K. Charles, by H. L. p. 129.*

† Many hundreds of clergymen, for refusing to publish the King's licence, were suspended from their ministry, sequestered from their livings, excommunicated, and prosecuted so severely in the High-commission court, that they were forced to leave the kingdom. Mr. Laurence Snelling, minister of St. Paul's Cray, in the county of Kent, having been deprived for this offence, objected to the authority of the court in a case merely civil. Laud, who presided, gave order not to accept his answer, insolently adding, that whoever should make such a defence, it should be burnt before his face, and he laid by the heels for his pains. *Prynne's Trial of Laud, p. 151.*

where



Anno 1633. where they inhabited, to hear divine service and sermons, and perform all duties and payments required in that behalf. Secondly, that the ministers, and all other of the Dutch and Walloon congregations who were not natives, and born subjects to the King's majesty, or any other strangers who should come over to them, while they remain strangers might have and use their own discipline, as formerly they have done; yet it was thought fit that the English liturgy should be translated into French and Dutch, for the better settling their children to the English government. Such injunctions were as a thunderstroke to these strangers, who had hitherto found in England an happy asylum from all degrees of persecution. They presented a petition and remonstrance to the archbishop, setting forth, that the injunctions now imposed were opposite to all the privileges which had been continued to them during the reigns of kind Edward VI. queen Elizabeth, and king James, and confirmed to them by his now majesty's regal word. Laud returned answer, that his majesty was resolved his instructions should hold; and farther added, in the true style and spirit of a persecuting zealot, "For my part, I doubt not but yourselves, or your posterity at least, shall have cause to thank both the state and the church for their care taken of you; but if you refuse (as you have no cause to do) and I hope you will not, I shall then proceed against the natives according to the law and canons ecclesiastical." These threats were so severely executed, that thousands of families were driven out of this country into Holland and New-England, to the great damage of all kind of manufactures\*.

Coke, p.  
31, & seq.  
Echard.

\* Coke relates, that one hundred and forty families of the workers of the woollen manufactory, which supplied Ham-  
burgh

To render the church of England, formed after the new model, as much marked and as much diffused as the church of Rome, Laud advised, that the English liturgy, with all the new rites and ceremonies prescribed, should be imposed on the regiments and trading companies abroad. The King's ambassadors in foreign countries had orders to withdraw themselves from the communion of the Hugonots: And thus was entirely lost to the crown of England the honor and the ad-

Anno 1633.

Heylin, p. 274, &amp; seq.

Hamburgh and the countries within the Sound, went into Holland, where the Dutch for seven years established them free of house-rent and excise; and from these exiles became instructed in the woollen manufactory, which they were before unacquainted with.

The city of Canterbury had petitioned in behalf of the French and Dutch congregations dwelling among them; insisting, among other things, on the great charge they should incur, if the relief of the poor French, which had hitherto been maintained on the common purse of that church, should be cast upon them; and the great want of work which would happen to their own poor, if the manufactures of the French should be discontinued. This produced no other effect than the following clause added to the injunction: That the natives should continue to contribute to the maintenance of their ministry, and the poor of their church; and that an order should be obtained from his majesty, if it was desired, to maintain them in their manufactures, against all such as should endeavor to molest them by informations.

It is said, that Richelieu made the following speech on this exacted conformity. "If a king of England, who is a Protestant, will not permit two disciplines in his kingdom, why should a king of France, who is a Papist, admit two religions?"

The following was king Charles's answer to the deputies of the foreign churches, the thirtieth of April, 1625. "I assure you, that I will continue to you the same favor which the King my father did shew unto you; and I hope that my marriage shall not be any damage to you, but rather occasion much good to your countrymen." *Coke*, vol. I. p. 311, & seq. *Heylin*, p. 279, & seq. *Trial of Laud*, by *Prynne*, p. 397.



Anno 1633. vantage of being esteemed the head and the support of the Reformation. On Laud's translation to the see of Canterbury, the chapels of Lambeth and Croydon were suddenly adorned with all the trappings of Popery \*. The stories of the old remains of paintings in the windows were made up according to the Roman missal. The furniture and ornaments of the communion-table were adequate to the windows; and as these were to be the leading examples to all the other churches, copes in administering the sacrament were constantly worn, bowing towards the altar was punctually observed, with all the other puerile ceremonies which made up the essentials of Laud's religion. So indefatigable was this prelate in introducing these innovations, which resemble the Romish ritual, that not only the subjects of Great Britain, but all Europe, believed the church of England to be relapsing fast into the true orthodox superstition. The court of Rome entertained hopes of regaining its authority; and, in order to forward Laud's pious intentions, made him twice an offer of a cardinal's hat. He declined accepting it, saying, "That something dwelt within him which would not suffer his compliance, till Rome were other than it is."

Laud's  
Diary, in the  
Breviate of  
his Life, by  
Prynne, p.  
18.

Laud's objection was to the pretensions of the Pope: He did not chuse to subject his metropolitical power to the court of Rome. It is very plain, that the genius of his religious opinions was very much the same with that of the Romish

\* A rich large crucifix, embroidered with gold and silver, was hung up in the King's chapel, over the altar; to which, as Prynne tells us, the chaplains were ordered to make their best bows. Laud set the example at his ingress and egress, a lane being made for him to see the altar, and do his reverence to it.

faith.

faith. If himself or his master had any objection Anno 1633. to Popery, it arose, in the one, from the authority the Pope claimed over princes, and from the king-killing principles of the Jesuits; in the other, from the desire of enjoying a papal authority in Great Britain. The same profound veneration was demanded to the sacerdotal character as the church of Rome exacted; the same absolute submission to the creeds and decrees of ecclesiastical councils; the same pomp was affected in worship; and the same superstitious regard to ceremonies, days, postures, meats, and vestments. This superstition, which as much defiled the purity of religion, and was as noxious to civil liberty as Popery, both the King and Laud avowed, and attempted by force to establish; appealing to the unsettled opinions of half-converted prelates on the early dawn of Reformation, and to the authority of fathers who wrote in ages when the Christian church more than inclined to an idolatrous superstition, and was deeply sullied with the dross of time.

Whilst all England trembled at the power Laud exerted, from his influence over the council-table, Star-chamber, and High-commission court; whilst the terrors of Leighton's punishment hung yet on the mind of the public; the courage, or rather hardiness of William Prynne, a barrister at law, gave rise to a scene of almost equal butchery. This man was a Presbyterian, as obstinate, as zealous, and as limited in his opinions, as Laud himself. His religious affections were much shocked at the increasing profligacy of the times, excited and encouraged by a swarm of theatrical performances, whose numbers had in a manner deluged the age. The worthy pursuits of science were, with never-failing watchfulness, barred from the



Anno 1633. subject by those Argufes who guard tyranny, the licenfers of the prefs. Thus excluded from the useful paths of literature, the people of genius and fancy applied themselves solely to the writing plays, and fuch kind of compositions, which, though they gave no offence to power, were very destructive to the morals of the people; who pursued these amusements with an eager uncloyed appetite. The King, the Queen, and the whole court, entered with glee into a species of entertainment, which, whilst it varied the action of the idle business of a monarchical life, helped to dissipate that reflection in the public which is so formidable to ill-defigning princes. Masks and mummings, drolls and dancings, were now the chief occupation of life; and Charles, who from his infancy had imbibed a taste for romances, made one with the queen, the noblemen, the ladies, and other followers of the court, in these exhibitions \*. In the midst of this general rage for what was called pleasure, Mr. Prynne took up the pen, and wrote a book, levelled against the darling diversions of both King and subject. He tells us, in his dedication to the law-society of Lincoln's Inn, that he was incited to this daring act on having seen, in four several plays, great wickedness and lewdness; that some young gentlemen of his acquaintance, who frequented play-houses, from being civil and chaste, became so vicious and prodigal, that they were disinherited by their parents; that the number of players, playbooks, and playhouses, were still encreasing; that above forty thousand playbooks were printed

\* They were allegorical representations of deities, heroes, elements, seasons; sometimes the glories of the reigning family were sung and danced in these pieces; with other flattering subjects of this sort.

within two years : that two old playhouses were lately re-edified and enlarged, and one new one erected ; that the multitude of London playhaunters was so augmented, that all the ancient playhouses, being five in number, were not sufficient to maintain their troops ; that a sixth was now added to them : whereas, even in Nero's reign, there were but three standing theatres in Rome. Mr. Prynne's great zeal to reform the age made him swell this performance to one thousand pages, being a collection of all the passages against theatrical performances he had found in the fathers, and other grave authors, with his own prolix remarks. This stupendous work was entitled "*Histrionum Mastix*." It appeared so inoffensive, that he got it formally licensed by archbishop Abbot's chaplain. Six weeks after it came out, the queen acted a part in a pastoral. Laud, who was a great enemy to Prynne \*, shewed this book to the King and Queen, laying a malicious stress on a reference in the table of the work, "*Women-actors notorious whores*." Prynne was confined in the Tower. Dr. Heylin, Laud's creature, was set to collect all the severe passages in the performance ; and Noy was charged to prosecute the offender in the Star-chamber †. Noy

Prosecution  
of Prynne.

\* For having detected him in his endeavors to impose Arminian tenets as the orthodox opinions of the church of England ; on account of his publication against the necessity of episcopacy, against the innovations introduced in religious worship ; and because of his success in procuring prohibitions to Laud's proceedings against him in the High-commission court. Prynne in this performance asserted, that bishops ought to invite the poor to their tables, to have part of the scripture read at meals, and preach constantly once a-day ; that ministers ought not to meddle with secular affairs, nor bear secular offices. *Prynne's Trial of Laud.*

† The behavior of the individuals who composed this infamous court of Star-chamber, on the judgment they gave



Anno 1633. truly performed the part of the king's attorney, inflaming his charge with forced constructions and

against Prynne is so puerile, insolent, and unbecoming the denomination of a court of justice, that it is proper in an History of those times to expose it to the contempt of the public.

The first who spoke was lord Cottington. He declared, that Mr. Prynne, in that libellous book, had expressed a malice against all mankind, and the best sort of mankind, kings, princes, peers, prelates, magistrates, and governors; that he was assisted immediately by the Devil himself, or rather, that he had assisted the Devil. Among other curious passages in Cottington's speech, he addressing the assembly, said, "My lords, shall not all who hear these tidings think that it is the mercy of the King that Mr. Prynne is not destroyed? Have not we seen men condemned to be hanged and quartered for far less matters? One Pinchman, I was myself employed with others in the examining him: He confessed, that the writing for which he was questioned was a sermon, which he did intend to preach; the words were against the person of the King, yet he never preached it; yet because he had written it with an intention to preach it, he was brought upon this point, and condemned to die. But this book is in print: It is against all magistrates, and particular against our sovereign and his blessed consort. And yet, my lords, it pleaseth his majesty to let Mr. Prynne have his trial here. Mr. Attorney noted unto your lordships, that you should see how necessary it was that Mr. Prynne should be clean cut off, as one who had a long time endeavored to move the people against the King. So I say with Mr. Attorney, it is high time that Mr. Prynne may be cut off, so far as may go with the censure of this court. My lords, Mr. Prynne is better dealt withal than he would have princes dealt with: he has had fair trials."

The next person who spoke was the lord-chief-justice Richardson. "My lords, said he, every man taketh upon him to understand what he conceiveth, and thinks he is nobody unless he is in print. We are troubled here with a monster (*monstrum horrendum informe ingens*). I do not think that Mr. Prynne is the only actor in this book, but that there were many heads and hands in it besides himself. I would to God in Heaven that the Devil, and all else who had their heads and hands therein besides Mr. Prynne, were, &c. for I think that they are all ill-willers to the state, and deserve punishment as well as Mr. Prynne doth. For the book, I do hold it a most scandalous, infamous libel on the King's majesty—a most pious and religious King; on the queen's majesty—a most excellent and

gracious

aggravating terms, till general invectives against Anno 1633.  
plays were mounted to a treasonable libel, of

gracious queen ; such a one as this kingdom never enjoyed the like, and I think the earth never had a better. I said, it was a seditious libel : This point of sedition is the only thing which troubles me ; and it is that which I shall offer to your lordships ; for I do know it, the good opinion, heart, will, and affections of the King's subjects, are his greatest treasure. Now if this be so, for any man cunningly to undermine these things, to take away the hearts of the subjects from the King, and to bring the King into an ill opinion among his people, this is a most damned offence ; and if I were in my proper place, and Mr. Prynne brought before me, I should go another way to work. I protest unto your lordships, it maketh my heart to swell, and my blood in my veins to boil (so cold as I am) to see this or any thing attempted, which may endanger my gracious sovereign : it is to me the greatest comfort in the world to behold his prosperity. Mr. Prynne writeth, that Tribellius Pollio relates, that Martian, Heraclius, and Claudius, three worthy Romans, conspired together to murder Gallienus the emperor, a man much besotted, and taken up with plays, to which he likewise drew the magistrates and people by his lewd examples ; as Flavius and others conspired Nero's murder for the self-same cause. Now, my lords, that they should be called three worthy persons who do conspire an emperor's death (though a wicked emperor), it is no Christian expression. If subjects have an ill prince, marry what is the remedy ; they must pray to God to forgive him ; and not say they are worthy subjects who do kill him. If they were worthy acts, Mr. Prynne, I can tell what you are. No man will conspire to murder a king, who can be a worthy actor ; for the very thought of it is high-treason. He speaketh of these three, that they were three worthy Romans who did conspire to murder Nero. This is most horrible ; and there can be no manner of exposition, but in the worst sense. For his excuse, he hath made none at all, only that it was not his intention."

The earl of Dorset, the queen's chamberlain, was the last man who spoke : He ran out into an elogium on his mistress. " Now, my lords, said he, as he hath wounded his majesty in his head, power, and government, and her majesty, his majesty's dear consort, our royal queen, and my gracious mistress, I can spare him no longer ; I am at his heart. *Ob, quantum ! &c.* If any cast aspersions and censures on our queen and her innocency, silence would prove impiety, rather than ingratitude in me, who daily contemplate her virtues.



Anno 1633. dangerous consequence to the realm and state. Prynne having owned himself the author, the fol-

I will praise her for that which is her own ; she drinks of the spring-head, whilst others take up with the stream. I shall not alter the great truth, which has been said with a heart as full of devotion as a tongue of eloquence, the other day, as it came to his part, Sir John Finch : “ My lords, her own example to all virtues, the candor of her life, is a more powerful motive than all precepts, than the severest laws ; no hand of fortune or of power can hurt her ; her heart is full of honour, her soul of chastity ; majesty, mildness, and meekness, are so married together, and so impaled in her, that where the one begetteth admiration, the other love. Her soul of that excellent temper, so harmoniously composed ; her zeal in the ways of God unparalleled ; her affections to her lord so great, if she offended him it is no sun-set in her anger ; in all her actions and affections so elective and judicious ; and a woman so constant for the redemption of all her sex from all imputation which men sometimes lay on them ; a princess for the sweetness of her disposition, and for compassion, always relieving some oppressed soul, or rewarding some deserving subject. Were all such saints as she, I think the Roman church were not to be condemned. On my conscience, she troubleth the ghostly father with nothing, but that she hath nothing to trouble him withall. And so, when I have said all in her praise, I can never say enough of her excellency ; in the relation whereof an orator cannot flatter, nor a poet lie.” When the earl of Dorset had finished his exalted panegyric, he gave his sentence against Mr. Prynne in the following low, illiberal, abusive terms. “ Mr. Prynne, said he, I do declare you to be a schism-maker in the church, a sedition-sower in the commonwealth, a wolf in sheep’s cloathing ; in a word, *omnium malorum nequissimus*. I shall fine him ten thousand pounds, which is more than he is worth, yet less than he deserveth. I will not set him at liberty, no more than a plagued man, or a mad dog, who, though he cannot bite, he will foam. He is so far from being a sociable soul, that he is not a rational soul ; he is fit to live in dens with such beasts of prey as wolves and tigers like himself ; therefore, I do condemn him to perpetual imprisonment, as those monsters which are no longer fit to live among men, nor to see light. Now, for corporal punishment, my lords, whether I should burn him in the forehead, or slit him in the nose ; for I find that it is confessed of all, that Dr. Leighton’s offence was less than Mr. Prynne’s—then why should Mr. Prynne have a less punishment ? He who

lowing cruel sentence was passed upon him : “ To be put from the bar ; to be excluded from the

Anno 1633.  
Sentence on  
Prynne.

who was guilty of murder was marked in a place where he might be seen, as Cain was : I should be loth he should escape with his ears, for he may get a perriwig, which he now so much inveighs against, and so hide them, or force his conscience to make use of his unlovely love-locks on both sides ; therefore, I would have him branded in the forehead, slit in the nose, and his ears cropt too, my lords. My lords, I now come to this ordure, I can give no better term to it, to burn it, as it is common in other countries ; or otherwise we shall bury Mr. Prynne, and suffer his ghost to walk : I shall therefore concur to the burning the book. But let there be a proclamation made, that whosoever shall keep any of the books in his hands, and not bring them to some public magistrate to be burnt in the fire, let them fall under the sentence of this court.”

The earl of Dorset, in the beginning of this harangue, said, that he should do that which a judge ought to do ; *viz.* assist the prisoner at the bar.

Mr. Prynne had lain a whole year in the Tower before he was brought to this court to receive sentence. In the following year he was again prosecuted for having written a letter to Laud, with very free animadversions on the severity of his treatment : He escaped a second punishment by dexterously getting the letter in his hands, and thus deprived the archbishop of evidence. Noy opened the charge by saying, that he had had much more favor shewn him than he deserved ; he had been mercifully dealt withal. He had been in prison, he had been degraded, he had had his ears cut off, he had undergone all shame.

There is a passage in lord Cottington’s speech, on his sentence given against Prynne, which gives rise for suspicion that there were cruelties practised by Charles and his ministry, against the opposers of the court, which are unknown to posterity. One Pinchman was condemned to die for writing a sermon he never intended to preach. I believe there is a mistake in the printing this name, and that the fact Cottington mentions relates to one Edmund Peachum, who, in the twelfth of James, was tried in Somersetshire for the aforesaid offence, and brought in guilty of high-treason : He had been kept in prison a whole year before his trial. In prison, he had been racked several times, as has been observed in the first volume of this History. James was so desirous of obtaining his condemnation, that he sent his serjeant and solicitor down to prosecute



Anno 1633. society of Lincoln's Inn, and degraded at Oxford; to stand in the pillory at Westminster and Cheapside, with a paper on his head, declaring his offence to be an infamous libel against the King, the state, and the government; to lose an ear in each place; to have his book burnt before his face by the hands of the common hangman; to be fined five thousand pounds to the King; and to suffer perpetual imprisonment. Michael Sparkes, the publisher and printer of the book, was fined five hundred pounds, and to stand in the pillory. Buckner, the chaplain, who licensed it, fifty pounds. He was used with this lenity because he avowed to the court, that he approved of all the ceremonies then used in the church; church-music he did allow of, and bowing at the name of Jesus.

The illegal, barbarous punishment which had been inflicted on Prynne, instead of rousing the half-subdued spirit of the English, gave rise to a pompous performance of the same sort as the unfortunate barrister had with so much hardness condemned. Noy the attorney-general, Sir Edward Finch the speaker of the house of Commons, and other dependents of the court, had so much influence on their brethren, as to instigate them to offer a mask to the King and queen, to wipe off the stain of being thought disaffected to their favorite amusement. To the ridicule of every person of common sense in the kingdom, the four grave societies of the inns of court threw

secute him. In this reign, I find an instance of a man imprisoned and racked on a false information of treason. *Rushworth*, vol. II. p. 247, & seq. Vol. III. *Appendix*, p. 34. *Letters, Speeches, &c.* by Dr. Birch, p. 47, *note*. *State Trials*, vol. I. p. 396, & seq.

aside

aside their law-studies, and attached themselves with earnestness to the important business of a mask, the regulating of which was entrusted to committees and sub-committees appointed for that purpose. Neither pains nor cost were neglected: It is said that this compliment cost the lawyers upwards of twenty-one thousand pounds\*. The King and queen were so delighted with the show, that, according to their desire, it was again repeated in the city, at the expence of the lord-mayor, who entertained them with a magnificent dinner; and the city had the complaisance to present the queen with a jewel worth four thousand pounds. They had offered a present of two thousand pounds; but that was rejected by the queen's chamberlain, as a gift not costly enough †.

*Strafford's  
Letters,  
vol. I. p.  
207.*

\* The lawyers shewed their dislike to patents and monopolies by a piece of satire introduced in the mask. Patents were ridiculed by a man riding on a little horse with a great bit, himself wearing a bit, head-stall, and reins, and begging a patent that none in the kingdom might ride their horses but with such bits as they should buy of him. Monopolies were ridiculed under the character of a man with a bunch of carrots upon his head, and a capon on his fist, begging a patent of monopoly, as the first inventor of the art of fattening capons with carrots. *Whitlock*, p. 18, & seq.

† Among the proclamations of this year, one enjoined the use of the bow and pike in military discipline. Another was published for pricing wines: The price of the best French wine was fixed at one shilling per quart. Another restrained the sale of tobacco; and another limited the prices of victuals within the household: This order was executed by an officer nominated the Clerk of the market of his majesty's household, who not only set arbitrary rates on provisions, but regulated the business of weights and measures, and all abuses therein. So very monarchical was the practice of these times, that this officer was invested with a power to inflict not only pecuniary but corporal punishment on offending and refractory persons. Farther to shew the power which the King and privy-council exercised to dictate in all matters relative to the police of the country,



Anno 1633.

Wentworth's behavior as president of the council of York.

The most active second of Laud in all his arbitrary practices was the lord viscount Wentworth\*. This man, since he commenced courtier, had become so great a tool of monarchy, and given such way to his vanity, and other contemptible passions, that he seems to have sacrificed with his virtue all pretensions to common sense. During his presidentship of the council of York, he exercised his power not only unjustly, but with a childish insolence. Sir David Fowlis, one of the council of York, a deputy-lieutenant, and justice of the peace; Sir Thomas Layton, sheriff of the county; and Henry Fowlis, Esq. were by him brought into the Star-chamber for discouraging people from paying their composition-money in the matter of knighthood. Though the charge was frivolous, and amounted to nothing but some trifling censures

country, an order of the council was hung up in a table near St. Paul's and the Black Friars, to command all who resorted to the playhouse to send away their coaches to disperse abroad in St. Paul's church-yard, and other places, not to return to fetch their company, but they to go on foot to their coaches.

A commission was given to the archbishop of Canterbury, the bishop of London, and others, for compounding differences between debtors and their creditors. This act of arbitrary sovereignty had been exercised both by Elizabeth and James.

Among the numberless proclamations of this reign, there is one against merchants, fishermen, and mariners, who having in king James's time been prohibited to trade with the savages of New-England, did barter away to those savages swords, pikes, muskets, match, powder, shot, &c. with which they destroyed the English who sold those weapons to them. *Strafford's Letters*, vol. I. p. 175, & seq. *Rymer*, vol. XIX. p. 210, 228, & seq.

\* Wentworth's first advice in council was, that the King should take tonnage and poundage as belonging to his prerogative, if the parliament refused to grant it; and to protect the farmers of the customs in defiance of that assembly. *Lloyd's Worthies*, fol. ed. Lond. 1668, p. 22.

of

of the president, and just reflections on the authority of the council of York; after asserting the prerogative of the crown in the business of knighting, the court fined Sir David Fowlis, as the principal offender, five thousand pounds to the King, and to acknowledge his great and several offences to his majesty and the lord viscount Wentworth, not only in the court of Star-chamber, but in the court of York, and likewise at the open assizes in the same county, where the decree was to be publicly read; moreover, to pay three thousand pounds to the lord Wentworth. As the council urged no proof against Sir Thomas Layton, he was dismissed without censure. Henry Fowlis was committed to the Fleet, and to pay five hundred pounds to the King's use \*.

\* In the following manner did Wentworth prejudge the cause, and solicit his fellow-counsellors for a sentence flattering to his vanity and his revengeful disposition. To lord Cottington he writes thus: "The sentencing this man (Fowlis) settles the right of knighting business bravely for the crown; for in your sentence you will certainly declare the undoubted right and prerogative the King hath therein, by common law, statute law, and the undeniable practice of all times: And therefore I am a suitor by you to his majesty, that he would be graciously pleased to recommend the cause to the lords, as well in his own right, as in the right of his absent poor servant, and to wish them all to be there. You are like to begin the sentence; and I will be bold to tell you my opinion thereon: You have been pleased sometimes, as I sat by you, to ask me my conceit upon the cause then before us; admit me now to do it upon my own cause; for by my truth I will do it as clearly as though it concerned me not. First, I desire you to remember how Greenfield was fined for calling my lord Suffolk only base lord; how a jury gave three thousand pounds damages to my lord Say for the same words; and then balance the slander most ignominiously and maliciously put upon me by Sir David and his son, and let me not be less valued than other men, when I conceive that I merit to be more regarded than they: For, first, I suffer merely for



Anno 1634.

The council of York had been erected by Henry VIII. without any authority of parliament, under the specious pretence of easing those sub-

for my zeal in his majesty's service, never having given him the least personal offence in all my life. Secondly, I was then in the heat of his majesty's business, which might by this means, taking away my credit, have been destroyed: I was (albeit unworthy) in that place chief governor under his majesty, his lieutenant, and president of his council there, which makes this a direct mutiny, and stirring up a sedition against the regal authority, as well as me. Thirdly, it is the most untrue, as well as malicious calumny, which ever was set on a man.—Much more I could say, if I were in the Star-chamber to speak in such a cause for my lord Cottington. But I will conclude with this, that I protest to God, if it were in the person of another, I should, in a cause so foul, the proof so clear, fine the father and the son, Sir David and Henry Fowlis, in two thousand pounds a-piece to his majesty, and in two thousand pounds a-piece damage to myself for their scandal; and they both to be sent down to York, and there publicly, at York assizes next, to acknowledge in the face of the whole country the right his majesty hath to that duty of knightings, as also the wrong he hath done me; humbly craving pardon of his majesty, and expressing his sorrow so to have misrepresented his majesty's most gracious proceeding, even in that course of compounding, where the law would have given him much more, as also for so falsely flandering and belying me without a cause. For Sir Thomas Layton, he is a fool, led on by the nose by the two former; nor was I willing to do him any hurt, and so let him go for a coxcomb as he is; and when he comes home, tell his neighbors it was well for him he had less wit than his fellows."

On Wentworth's compliments on this account to Laud, he returned answer, That whereas he (Wentworth) served the church so heartily, church-men would be much to blame if they did not serve him.

Wentworth brought a yet more childish complaint against Henry Bellasis, son to the lord Falconberg. He was called before the council-board to answer his not having pulled off his hat to the lord-president. Notwithstanding he pleaded he was talking to the lord Fairfax, and that his face was turned another way, he was committed to the Gate-house, till he had on his knees made an acknowledgment to the offended president. *Strafford's Letters*, vol. I. p. 145, 212, & seq. *Rushworth*, vol. II. p. 8.

jects

jects who had not money to prosecute their suits Anno 1634. in the courts at Westminster. The jurisdiction of this unconstitutional court extended over Yorkshire, Northumberland, Cumberland, and Westmoreland, the bishopric of Durham, the counties of the city of York, Kingston upon Hull, and Newcastle upon Tyne. At first, it acted according to the rules of other criminal courts; but king James, in the very first year of his reign, by his commission to the lord-president, made it depend on instructions which the King should send; its bounds to be limited or enlarged according to the conveniencies of state. Charles, who improved upon every plan of usurpation which had been traced out by his father, at the desire of lord Wentworth, renewed the commission to him, with such exorbitant powers that it made the council of York a court of equity, with an extensive civil jurisdiction, independent of the courts at Westminster, and every rule of law in the kingdom. Among other matters, the president and council were to punish divers offences, whether the same was provided by act of parliament or not, so as the fines imposed were not less than were appointed by parliament: Likewise, to hear and determine, according to the course of proceedings in the court of Chancery, all manner of complaints, and to stay proceedings in the courts of common law, by injunctions or otherwise, as is used in the courts of Chancery; that no prohibition should be granted at all, but in cases where the president exceeded the limits of his instructions; and that if a Habeas Corpus was granted, the party not to be discharged till he performed the decree of the court; if any fine or amerciamment should be set for not freeing such persons committed before the

Rym. Fœd.  
vol. XIX. p.  
414, & seq.



Anno 1634. decree was performed, the treasurer and barons of the Exchequer were by the instructions ordered to discharge it. And if any commission of rebellion against the decree of the said court should be sued out of the court, and the party should happen to fly out of the jurisdiction of the said court, the serjeant at arms attending the lord-president or vice-president, or any other they should authorize in that behalf, were to attach the person so offending in any parts of the realms of England \*. “ And whereas, added the instructions, we perceive that mildness and favors do much bolden the evil-disposed, we earnestly require the said lord-president and council, for some convenient season from henceforth to use severity against notable offenders, and to punish them without long delay, not only by pain of body and imprisonment, but also by good fines and amerciaments, so as the opinion and report of severity may work that by force, which is, and hath long been seen will not be obtained by favor and gentleness †.”

\* These instructions were even more arbitrary than those which were given to the lord-president of the principality of Wales. The government of this country had been thought so oppressive, that James had been continually petitioned by the Commons, though in vain, to give up this part of his prerogative, and admit that the Welsh should be under the same jurisdiction as were the subjects in England.

† These additional clauses were added, on lord Wentworth having exerted a tyranny beyond the bounds of his instructions. One Vaux procured a prohibition: he was arrested by a warrant from lord Wentworth, and afterward rescued. Another warrant was directed for bringing the rescuers from London to York, where they were imprisoned: Wentworth saying, that whosoever brought a prohibition there he would lay them by the heels; that he would try the jurisdiction of the court of York; and if the judges did not remand the cause back again, he would appeal to the King. Mr. Thorpe, a lawyer and justice of peace, on obtaining a prohibition,

was

The attention of the ministry for the first five Anno 1634. years of Charles's reign had been so entirely di-

was put out of his office. He having, at the quarter-sessions, declared he would appeal from that court to the judges, Wentworth brought him upon his knees to make submission; saying, he would teach him there were other men for him to complain to, the president and council. Wentworth was angry with Thorpe for not continuing long enough on his knees, and bound him over to his good behavior, and to make submission at the sessions for having defended his client's cause with warmth, though he appealed to the King's council whether he had spoken any thing contrary to law. This was not the only prosecution Thorpe met with from the angry deputy: One day, as he attended a cause in the Star-chamber, Wentworth accosted him thus: "I command you not to depart the town." In compliance with this injunction, Thorpe attended some time, without being told the nature of his offence, only that he did oppose the lord Wentworth, and he should attend. At length, by the interest of the lord Goring, he was dismissed into the country, with an order to pay knighthood-money, though he had not been in possession of forty pounds per year three years before the coronation, as mentioned in the writ. Another offender having been arrested by a serjeant at arms, and kept eighteen weeks in confinement, appealed to the King at the council-table. Wentworth being present, fell on his knees, and besought the King to let him leave his service, if his instructions might not be so good as to bring in a delinquent who stepped over the water. The president complaining to Cottington that the Exchequer-men had sent out warrants to bind all recusants to their good behavior, writes, "And to help this matter the better, justice Vernon openly in his charge at York-assizes delivered, as he said, my lord-keeper's directions, and the King's command, concerning recusants; that his majesty's pleasure was, that the justices of the peace should execute all the statutes upon them, which were observed to be very faintly and remissly performed, and especially that of twelve-pence per Sunday; and pressed it so far as to make their former neglect of execution disloyalty, if not perjury. It seems, either did my lord-keeper very effectually deliver his majesty's pleasure to the judges before the circuit, or this justice Vernon very dutifully observe it. Betwixt them, I am sure they have made all the recusants ready to run from their compositions, thinking that there is no faith to be kept with them on this earth; and so hazards the overthrowing a



Anno 1634.  
Affairs of  
Ireland.

Collier's Ec-  
clesiastical  
History,  
fol. ed.  
1714, vol. II.  
p. 897.

rected to the subduing the determined spirit of the English subject, that Ireland had been in a manner neglected. To the Irish plantations, undertaken by king James, Scotland had transplanted the greatest number of adventurers: these planters gave the tinct of Calvinism to the reformed religion in that country. In the year

greater service than they, put them both together, will do his majesty, I believe, these seven years. Nor was Mr. Justice Vernon less peremptory with his majesty at Durham: for being on the bench, hearing a *Nisi Prius*, there were offered by the one side certain depositions to be read, taken before the president and council; the judge rejected them. It was replied, by the King's instructions they were commanded to be read; and offered to shew that article in the instructions under the great seal of England, which so ordains it; but my gentleman, he knew of no such matter—the instructions were nothing to him—and so would not suffer either the reading of the depositions or articles. If this were not a goodly example, in the face of a country living under the government of a president and council, for the respect and obedience due to the authority set over them by his majesty, of that awful reverence and duty which we all owe to his majesty's declared good will and pleasure, under the great seal, I am much mistaken. I do therefore most humbly beseech this judge may be convented at the council-board, charged with these two great misdemeanors; which if he deny, I pray you say openly in council, that I am the person will undertake to prove them against him; and withal affirm, that by these strange extravagant courses he distracts his majesty's government and affairs more than ever he will be of use to them; and that therefore I am a most earnest suitor to his majesty and their lordships, that he be not admitted to go that circuit hereafter: and indeed, I do most earnestly beseech his majesty by you, that we may be troubled no more with such a peevish indiscreet piece of flesh.

“ I confess I disdain to see the gown-men in this sort hang their noses over the flowers of the crown, blow and snuffe upon them, till they take both scent and beauty off them; or to have them put such a prejudice upon all sorts of men, as if none were worthy to be trusted with honor, and administration of justice, but themselves.” *Rushworth*, vol. II. p. 158, & seq. *Strafford's Letters and Dispatches*, vol. I. p. 129, & seq.

1615, by the management of the learned Dr. Anno 1634.  
James Usher, then provost of Dublin-college,  
and afterwards lord-primate, the whole doctrine  
of Calvinism was received as the public belief of  
the Irish church, and ratified by the lord Chi-  
chester in the King's name. James having ear-  
nestly engaged in the controversy with Vorstius,  
could not immediately reject those opinions which  
he had countenanced, and in a manner supported,  
in Holland. Laud was now determined to intro-  
duce in Ireland the belief and discipline he had  
established in England. The revenue of that  
country was not sufficient to supply the expence  
of the government, and to maintain the addition  
of troops which had been established on Charles's  
accession\*.

Standing armies are always agreeable to the  
views of arbitrary princes. The insolence of the  
Irish Papists, who had been hitherto favored by  
the ministry, furnished a pretence for augmenting  
the military force in that kingdom. To effect  
this, and thereby to model the frame of govern-  
ment on the true prerogative footing, to raise the  
revenue to a height which should not only render  
that crown less burthensome to the monarch,  
but furnish an overplus to support the magnifi-  
cence of his state in England, became the prime  
object of Charles's council. To execute these  
great designs, none was thought so proper as the  
viscount Wentworth: his insolent behavior whilst  
he presided in the council of the North, was mis-

\* He had increased his army in Ireland from fifteen hun-  
dred men to five thousand foot and five hundred horse, and  
had quartered them in several troops and companies upon the  
counties and towns of the kingdom, to maintain them in  
their turns for three months at a time, with money, cloaths,  
and victuals. *Carte's Life of the Duke of Ormond*, p. 50.



Anno 1634. construed by the King into a maintaining his dignity; the inflexibility he had shewn in the illegal courses which had been prescribed to him, was regarded as a fulfilling the duties of a minister, and an honest attachment to the rights of the crown. In the year 1631, he was appointed deputy of Ireland. His powers, at his own request, were enlarged beyond those of any of his predecessors; with liberty to raise as numerous an army as he pleased\*.

Thus invested with a plenitude of authority, he undertook to perform wonders in Ireland, and to more than satisfy all the expectations of the English ministry. The folly and insolence of his carriage, on his entrance into his office, was of a piece with his behavior in England. He treated all the men of rank and fortune in the country with a supercilious state, and the council as if they had been his servants†. The revenue of

Carte's Life  
of Ormond,  
vol. I. p.  
58, & seq.

\* The following were two of the propositions made by Wentworth on his acceptance of this office; they were agreed to by the King: *viz.* That no particular complaint of injustice or oppression be admitted against any, unless it appear the party made his first address to the deputy.

That the places in the deputy's gift, as well of the civil as the martial, be left freely to his dispose; and that his majesty will be graciously pleased not to pass them to any, upon suit made to him here. *Strafford's Letters*, vol. I. p. 66.

† The first council he summoned was only a particular number who were the most distinguished by the dignity of their offices; these he offended by making them wait two hours before he came to them.

As trifling anecdotes are often of service to investigate the true characters of men, I shall notice the following ceremony Wentworth used on his return from his inauguration: Passing through the prince's chamber, he stopped at the chair of state, and there he made a low and solemn reverence. He was so fondly attached to, and desirous of being treated with, all the foppish formalities of state, that he wrote to the King and council of England for leave to extend the ceremonies.

“ The meetings and proceedings of this council, writes he, albeit

Ireland was, on the commencement of Wentworth's government, under vast anticipations, and moreover loaded with a debt of one hundred and six thousand pounds. In these circumstances,

albeit much for the better since I came, yet are they not with the civility and dignity which should become the honor of his majesty's service, and the place: therefore I desire that the orders set down for the privy-council of England might be sent unto us, with this addition, that no man speak covered, save the deputy, and that their speech may not be directed one to another, but only to the deputy.

"I am commanded by my instructions, to call upon the nobility and others to attend the deputy upon all solemn processions to church, and such-like. This is not so well observed as it ought; and they grow generally more negligent than is fit they were: not truly, I trust, in any distaste to me—for to my person they give as much respect as I desire from them; but I know not how, in point of greatness—some of them thinking it too much, perchance, to be tied to any thing of duty—rather desirous it might be taken as a courtesy. It would do therefore very well his majesty were graciously pleased by letter to signify what the attendance is he requires at their hands; *viz.* that the noblemen, bishops in their rochets, and counsellors, attend the deputy upon their foot-cloths, or otherwise on horseback, the judges and his learned counsel likewise upon theirs, upon such solemn days as formerly have been accustomed; and the captains and gentry who are not counsellors, to go on along with the rest of the company before the deputy: which I will cause to be entered in the council-book, and obeyed accordingly.

"The rooms of this house are almost become common, every ordinary gentleman thinking it a disparagement to stay any where but in the drawing-chamber; which indeed is occasioned in part by suffering the presence to be so familiar, that for the most part it is filled with the servants, whilst the masters are within. Lest, therefore, the King's greatness, albeit but in the type, become less revered than truly it ought to be, I pray to receive the like commands, that upon days of meeting none but noblemen come farther than the drawing-chamber; the gallery only free for those who be of the council; and that all their servants stay in the great chamber, where they and all others are to be bare, as well as in the presence, there being there a state as well as in the other." *Carte's Life of the D. of Ormond*, fol. ed. vol. I. p. 56, & seq. *Strafford's Letters*, vol. I. p. 200, & seq.



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it was necessary to raise an immediate supply. Wentworth, by the promise of a parliament, procured the continuation of the voluntary contribution\*. The inhabitants of the county of Cavan, and Bedell the bishop of Kilmore at their head, remonstrated against the continuance of this imposition, and the excesses committed by the soldiers. This Wentworth considered as an insolent attack on his authority, and expressed great indignation against the bishop; but felt the necessity of remedying the disorders which were specified in the complaint. He was so industrious in restoring discipline, that the ignorant Irish, who had only considered the army as a grievance on account of the violences committed by the soldiers, now cheerfully submitted to that formidable instrument of tyranny, a standing military force.

The voluntary contributions were to be continued but for two years; it had already existed ten, and the people were under great uneasiness lest this should be established by custom into a

\* The lord Balfour and others having refused a former contribution, they were proceeded against as delinquents. On this business, Wentworth, who had not yet taken possession of his government, writes thus to secretary Cook: "When I come on the other side, believe me I will teach both them and others better grounds of duty and obedience to his majesty than they have shewn in this wanton and saucy boldness of theirs: and so much the more careful must we be to correct this peccant humor in the first beginning, in regard this is a great revenue, which his majesty's affairs cannot subsist without; so that we must either continue that to the crown, or get something from that people of as much value another way: wherein I conceive it most necessary to proceed most severely in the punishment of this offence, which will still all men else for a many years after; and therefore, if the King or yourself conceive otherwise, help me in time, or else I shall be sure to lay it on them soundly." *Strafford's Letters*, vol. I. p. 88.

perpetual tax \*. A large sum of money was necessary to accomplish the design of rendering the crown independent, and consequently absolute. This was proposed by Wentworth to be done by a parliament. Property was at this time very precarious in Ireland: many proprietors of land could derive no title from the crown; the letters-patent of others were insufficient in law, defective, doubtful, or not plain enough to prevent dispute. The subject longed to be made easy by an act of parliament which should bind the crown, and give them an absolute security in their estates. This was agreeable to the designs of the deputy, who could advance his master's revenue by the compositions, and obtain from the parliament a considerable grant in return for screening them from farther molestation in the possessions of their estates: Besides, the two factions of Papists and Protestants, more intent on thwarting each other than in maintaining their mutual rights, were an easy prey to the views of a minister. A parliament was resolved on. Wentworth's next care was to name proper sheriffs, and other officers, who should manage the elections in a manner that the two parties of Roman Catholics and Protestants being equally balanced, the servants of the crown should throw the scale upon the side of royalty †. As he was desirous that the large

\* Subjects ought to be very careful how they give way to bad precedents: The most noxious privileges of princes are often established on no better foundation. Charles and his minister Wentworth looked on this contribution, though a voluntary one, as the King's right. The deputy assures him, that though he was successful to procure from the parliament a compensation in lieu of the contribution, he should take care not to conclude his majesty's prerogative to these kind of levies for the future. *Sirafford's Letters*, vol. I. p. 245.

† "I shall endeavor, writes Wentworth, the lower house may be so composed as that neither the Recusants, nor yet



ANNO 1634. sum of money he hoped to obtain from the Commons should not be clogged with concessions from his master, he determined to make two sessions of this parliament: One to secure the supply, and the other to pass those bills he deemed proper for the crown to assent to\*. A parlia-

the Protestants, shall appear considerably more one than the other, holding them as much as may be upon an equal balance; for they will prove thus easier to govern than if any party were absolute. Then would I, in private discourse, shew the Recusants that the contribution ended in December next: if your majesty's army were not supplied some other way before, the twelve-pence per Sunday must of necessity be exacted upon them: and shew the Protestants, that your majesty must not let go the twenty thousand pounds contribution, nor yet discontent the other in matters of religion till the army was some way else certainly provided for; and convince them both, that the present quarterly payments are not so burthensome as they pretend them to be, and that by the graces they have already more benefit than their money came to. I will labor to make as many captains and officers burgessees as possibly I can; who having immediate dependance upon the crown, may almost sway the business betwixt the two parties which way they please. In the higher house your majesty will have, I trust, the bishops wholly for you; the titular lords, rather than come over themselves, will put their proxies into such safe hands as may be thought of on this side." *Strafford's Letters*, vol. I. p. 186, & seq.

\* "There being some of your majesty's graces, writes Wentworth, which being passed into laws might be of great prejudice to the crown, and yet it being to be feared they will press for them all, and it is uncertain what humor the denying any of them might move in their minds, I conceive, under favor, it would be much better to make two sessions of it, one in summer, the other in winter; and in the latter to enact so many of those graces as in honor and wisdom should be judged equal; when the putting aside of the rest might be of no ill consequence to other your royal purposes. If the parliament should meanly cast from them the mighty obligations the nation owes to your majesty, your majesty's affairs can never suffer less by their starting aside, when the general peace abroad admits more united counsel in your majesty, and less distracted thoughts in your ministers, to chastise such a forgetfulness, to call to their remembrance, and to enforce from them other and better duties than these."

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ment in Ireland was an excellent object for ministerial craft to work on. The natives had been so long deprived of this privilege, and so negligent of their records, that they were obliged to send into England for precedents concerning the customs of parliament\*.

Anno 1634.  
Rushworth,  
vol. II. p.  
209, & seq.

\* Wentworth gives the following account of the manner in which he abridged the privileges of the subject: "Previous to the meeting of parliament, the lord-chancellor had moved, that the lords of the pale, according to the custom of former parliaments, might be conferred withal concerning the matters therein to be propounded: I presently silenced it by a direct and round answer, that should we do so, I feared his majesty might judge we had exceeded our directions, opening his council to any but ourselves, without his special warrant. Within some four days after, the earl of Fingal told me, the report went there would be a parliament, and that their lordships of the pale had been accustomed to be consulted with before those meetings, to assemble and take advice together what to propound for the good of the people. My answer was quick: I told him, that the calling of parliaments was the peculiar of kings, and so locked up in the sacred breast of his majesty, that as it were want of good manners in me his servant to pry into, or impart his counsels, sooner than should in his own good time be revealed unto me; that I must tell him, I conceived his majesty might judge it with some more reason a high presumption in him, or any other private man, to elect themselves inquisitors over his gracious purposes towards his subjects, which were set with so much love and justice, in so much height and perfection, as could not by them all put together be so well disposed and guided as they were already by those clearer lights of his own wisdom and goodness; that assuredly his majesty would reject with scorn and disdain all such foreign instructions between him and his people; neither must his lordship or any other expect his majesty would consult, in the calling of his people, any, or in other manner than he should judge fit and convenient; that therefore himself and the rest were to wait the times and the seasons, and not think of applying any thing in the calling of parliaments to themselves, as not belonging to them, nor indeed the appointing of any other meetings, or other conferences, to be had by any subjects in those public affairs, but in their open assemblies of parliament, which his majesty would graciously vouchsafe to hear, containing their  
discourse



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On the first meeting of the parliament, the deputy, in a very magisterial manner, acquainted

discourse within the bounds of sobriety and moderation, and to give them such answers as were fit for the rest: His own counsels were sufficient to govern his own affairs and people, without borrowing from any private men whatsoever; whose duty it was not *altum sapere*, as to look upon these deep mysteries of state before thereunto called by his majesty."

Wentworth had in this business of an Irish parliament recommended an inviolable secrecy to the council of England, that he might have an easier prey of this unguarded people, and ascertain his future favor from establishing government on the King's own principles in Ireland: But he did not find the council so abjectly devoted as to be very forward to destroy their own liberties to the advancement of his private designs. He writes, he was fain to work off some little difficulties; that understanding, by the master of the rolls and Sir George Radcliffe, that the council grounded their opinion much upon pleasing the people; that they moved to have the bill of monopolies propounded; divers other bills of grace; and insisted much upon having the general pardon go over with the subsidies, as good inducements to content the houses; that they were not inclinable to send the bill of subsidies with blanks, but to grant two in certain; that upon estimate made of an entire subsidy to be thirty thousand pounds, they grew to forecast, that in case these subsidies were answered by one in a year, whereas now the contribution was but twenty thousand pounds, there would be ten thousand pounds above the ordinary charge; and so, consequently, for fear all surplusage should be swept away upon suit in England, the coin transported, to the impoverishing the kingdom, that it was necessary to proportion the supply so even as there might not be any to spare, which might be effected by enacting the payments to be but one third part half yearly.

"I, added Wentworth, not knowing what this might grow to, went instantly unto them, when they were in council; told them plainly, I feared they began at the wrong end, thus consulting what might please the people in a parliament, when it would better become a privy-counsellor to consider what might please the King, and induce him to call one; that albeit I had not in particular as yet to resolve them what it was his majesty would propound, yet I knew, as all other great and wise princes, his majesty expected to be trusted—nor did ever any deserve it better from his people; that he would not in any case admit of conditions, or be proceeded withal

both houses what was expected from them \* : Anno 1634.  
That one hundred thousand pounds debt was to

withal by way of bargain or contract; that he would be provided for as the head, and care for his people as members, through all the expressions of a gracious and good king, but still according to the order of reason, nature, and conscience—himself first, his people afterwards; that as for the bill of monopolies, it was not to be granted at all—the other bills of grace not seasonable now.

\* As some of Wentworth's popular speeches have been quoted in this History, the reader perhaps will not be displeased to be acquainted with his eloquence in the ministerial strain. He began his oration to the parliament in the true prerogative style, after the manner of the Stewart family. "Albeit, said he, the reasons leading and resolutions set in assembling of parliaments be the hidden secrets, the privileged peculiars of kings, for which they are in no kind accountable, nor ought any subject, uncalled, to intermeddle; yet is his majesty graciously pleased that I thus set forth the grounds of this present meeting faithfully and evidently before you; and if temples constituted by Jupiter and the Pagans to their Apollo, and those other gods of the greater volume, were (as the architect rules it) to be left *sub dio*, without any other than heaven for a covering, *quoniam horum Deorum, & species & effectus in aperto mundo atque lucente præsentibus videmus*, then sure, with far better reason than those their fictitious gods, are the princely and just intendments of my gracious and great master to be by us all this day celebrated under the sun, considering that if we, who have the happiness to gather the blessed fruits of his government, could prove so ingrate as not to acknowledge them, yet shall their own weight and piety convey them along, proclaim him aloud to future ages famous even among the best of kings." After this bombast flourish, Wentworth stated the debts of the crown, and conditions of the revenue; he urged the great merits of the King in his government, and the obligations which lay upon the parliament for granting a supply. "There must be a standing revenue, continued he, (mark it well) provided by you to supply and settle the constant payments of the army: For it is far below my great master to come at every year's end, with his hat in his hand, to entreat that you would be pleased preserve yourselves.—Next let me advise you, suffer no poor suspicions or jealousies to vitiate your judgments; much rather become you wise by others harms. You cannot be ignorant of the misfortunes these meetings have seen of late



Anno 1634. be discharged, and a yearly revenue of twenty thousand pounds settled for the payment of the army. With this he intimated the King's resolution to make two sessions; the first for his own business, and the second for the public; but withal gave strong assurances of his majesty's intention to comply with their desires, provided they tacked no conditions to their supply.

The majority of this parliament seem to have been deficient in abilities, rather than inclination,

late years in England; strike not therefore upon the same rock of distrust which hath so often shivered them: For whatever other accident this mischief may be assigned unto, there was nothing else which brought it upon us but the King's just standing to have the honor of our trust, and our ill-grounded obstinate fears which would not be secured. This was that spirit of the air that walked in darkness, abusing both; whereon if once one beam of light and truth had happily reflected, it had passed over as clouds without rain, and left the King far better contented with his people, and them much more happy (albeit as they are) thanks be to God and his majesty, they are the happiest in the world.—Finally, I wish you had a right judgment in all things; yet let me not prove a Cassandra among you, to speak truth and not be believed: However, speak truth I will, were I to become your enemy for it. Remember therefore that I tell you, you may easily make or marr this parliament. If you proceed with respect, without laying cloggs and conditions upon the King, as wise and good subjects ought to do, you shall infallibly set up this parliament eminent to posterity, as the very basis and foundation of the greatest happiness and prosperity which ever beset this nation. But if you meet a great king with narrow and circumscribed hearts, if you will needs be wise and cautious above the moon, remember again that I tell you, you shall never be able to cast your mists before the eyes of a discerning king; you shall be found out; your sons shall wish they had been the children of more believing parents; and in a time when you look not for it, when it will be too late for you to help, the sad repentance of an unadvised breach shall be yours, lasting honor shall be my master's." *Strafford's Letters*, vol. I. p. 286, & seq.

to preserve their power and independency. The Commons were on the point of rejecting the recorder of Dublin for their speaker, who had been recommended by the deputy, but did not insist on this point. Such was their ignorance of the privileges of parliaments, that they submitted to the documents of Wentworth, who in very arrogant language told them, it was their duty to submit to the King's choice; and quoted the example of the English parliaments for a constant acquiescence in this point. The division on the first question convinced him, that he had succeeded in his plan of balancing equally the two parties of Roman Catholics and Protestants; the Recusants ranging themselves on one side, and the Protestants on the other. The question was moved by the Recusants: It was for purging the house; and was carried against them by eight voices only. On this discovery, Wentworth writes, that he grew confident of success, and moved for the supply the next day, having previously prepared the council, and directed them in what manner to behave; withal charging them to speaking earnestly for six subsidies, and to prepare their friends to use all their power and credit to gain the point. Each man's behavior, he said, in this business he should transmit to the King. On this unexpected proposal, the Recusant party moved a stay till the house should be purged of those members who had, by fraud and connivance, gained an undue election; but the Protestant party, determined to thwart their enemies, closed in with the proposal, and the supply was carried by twenty-eight voices. This important point gained, the deputy and his dependants found means to spin out the session without concluding any thing, or passing other laws



Anno 1634. laws than the acts of subsidies, and one more, which was also to bring money to the crown, the confirming compositions which should be made upon defective titles.

The Lords, according to the gentle nature of nobility, were not behind-hand with the Commons in testifying their obedience to the crown, and observance of the deputy; nor did the deputy shew less insolence of office, or treat them with less arrogance, than he had used to the Commons. They had passed laws, and given orders to the attorney-general to draw them up in form, to be transmitted for the King's approbation. Wentworth fired at this encroachment on his authority, but suppressed his resentment till the bill of subsidies had passed both houses: He then, in a tone of high superiority, gave the Lords to understand, that they had proceeded beyond the limits of their power; he intimated, that he imputed it to their ignorance, and not to any indirect purpose; he should content himself with entering his protestation against it in the King's behalf, which he required might be recorded in the house; and desired them for the future not to exceed the power which was left them by Poyning's Act\*—a liberty only to offer

\* Noy the attorney-general had given his advice, that the parliament should have power to pass acts, and transmit them to England. Wentworth opposed this popular measure, and represented to the King, that it would be a great injury to his prerogative, gotten by the wisdom of former ages: For now should they grow importunate in their proposals, the deputy might silence them by giving them to understand, that they incurred danger by discoursing on matters to which they were not authorized by his majesty's warrant. Carte, though a man of most arbitrary principles, reasons thus of this statute, called Poyning's Act: "The Irish may think themselves downright slaves by this act, which restrains them from making any law, or taking any measures, to redress their grievances;

by petition to the deputy and council such considerations as they should think good for the commonwealth, by them to be transmitted or staid. The Lords, far from shewing themselves angry at the manner or the matter of the deputy's opposition, acquiesced with his dictates, and declared it had not been their intention to offend. Both houses had pressed much for the graces, especially the law of England for three-score years possession to conclude the rights of the crown: In the lower house, some had ventured to urge the King's promise; the Commons had named a committee to attend the chancellor, and other law-officers appointed by Wentworth, to make ready those laws which were to be transmitted at the next meeting. This credulous assembly imagined they were on the point of reaping the fruit of their generosity and unlimited complaisance to the crown, and incessantly importuned the deputy and council for the performance of what had been largely promised in the King's name. The deputy called the council together, and finding them complaisant enough to share with him the odium of being guilty of a base deceit, plainly told the committee, that they should not give way to the transmitting of the law of three-score years, nor any other of the graces which were prejudicial to the power of the crown\*.

ances; subjects them to the will of persons who have different interests from theirs; disables them from making application to the King, but by the intervention and mediation of his ministers, generally sent from another kingdom, too jealous of the prosperity and commerce of Ireland." *Strafford's Letters*. vol. I. p. 269. *Carte's Life of Ormond*, vol. I. p. 80.

\* Wentworth, in his account of the transactions of this parliament, writes, that there fell a breach between the two houses, which kept them asunder all the session: The Commons



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I have thought it necessary to be full in my quotation of the account Wentworth gives of the management of this parliament, since it exposes to the public the infamous artifices of statesmen, and shews that parliaments are noxious things

mons would not confer with the Lords, unless they might be covered as well as their lordships, which the others would by no means admit. “For my part, adds he, I did not lay it very near my heart to agree them, as having heretofore seen the effects which follow when they are in strict understanding, or at difference among themselves. Besides, I saw plainly, that keeping them at distance I did avoid their joining in a petition for the graces, which infallibly they would have done, which now comes only singly from the Commons. I conceive it will be very easy, the next session, either to agree or keep them still asunder: I desire there may be a thought bestowed upon it at some leisure, and let me have my directions.”

In the second session of this parliament, the Lords having proceeded some steps to bring one Sir Vincent Gookin, an offender, to justice, Wentworth told them, that they might not assume a judicature of any thing which had not been first transmitted as good and expedient by the deputy and council; for so Poyning’s Act prescribed, not only in all acts, but in every ordinance of parliament.—“Thus far I went, added he, to prevent their gaining of judicature, wherein I did believe his majesty was not so fully resolved in the convenience and fitness thereof by any effect it hath produced, since it was restored to the house of parliament in England. Yet I do see that unless some strict course be held against him to bring him to judgment, they will be much discontented; that the offence will bear a deep fine to his majesty; and that Sir Vincent Gookin, a very rich man, will be able to undergo it. Therefore, to still them from farther prying into the powers and usage of parliaments, I do humbly advise that there may be diligence used on that side to send down a serjeant at arms to apprehend him; and that he may under safe custody be brought back to us here, where the attorney will have an information ready to put in against him in the Castle-chamber. So may he in a short time come to sentence; and yet by this means the question in a parliamentary way be altogether silenced, with satisfaction to them, and with honor and benefit to his majesty.” *Strafford’s Letters*, vol. I. p. 279. 349.

when

when they become the dupes of ministers; that assemblies invested with such authority ought carefully to weigh and examine the specious pretences of those tools of power, lest, deluded by the base arts of king-craft, they become the suicides of their own liberties, and the fatal instrument of destroying those rights they were constituted to defend.

The deputy thus obtained from the parliament a sum beyond his fondest expectations, and that without any conditions stipulated for the just privileges and honors of that assembly, or laws passed for the ease and welfare of the people. The graces, on which they had already forgiven a debt of one hundred and fifty thousand pounds, and contributed one hundred and sixty thousand pounds; the graces, on the hopes of which being resolved into confirmed laws they had moreover parted with six subsidies, were almost all entirely laid aside\*, and the King rendered absolute by the uncertain state of their constitution, and the independance he had attained by their indiscreet bounty. Of all the graces, that which excluded the King's title after threescore years possession, according to an act which had passed in the English parliament in the twenty-first of James's reign, was the most eagerly desired by the Irish, and particularly mentioned in the address of the Commons to the deputy as the King's express promise. This was

Strafford's  
Letters,  
vol. i. p. 311.

\* Among this number was that which excluded the accusations and testimonies of persons notoriously infamous, and convicted of capital offences, for convincing evidence to condemn any subject. We have already seen how this power was exerted to the destruction of the family of the Byrnes; the denying, therefore, the passing the desired grace into a confirmed law, shews as corrupt and inordinate an affection for unbouded power, as can be instanced in history.



Anno 1634. rejected by Wentworth, as a peculiar disadvantage to his farther designs on that country. Nothing passed in the second session, but some laws to regulate the police, some relative to the undertakers in the several plantations, the denization of the Scots, some favorable to the church\*, and two statutes of uses and wills, which increased the King's power and profit in one of the most exceptionable branches of his prerogative, of wardship†. The infamous treatment this parliament met with, after they had yielded the full grant of what was demanded of them from the crown, and this on the faith of ministerial assurances, illustrate the propriety and utility of that cautious diffidence, which, during the first period of this reign, marked the counsels of the English senate; a conduct which has been attacked in a most wanton and unjustifiable manner by many writers of those times.

The manner in which subsidies had been raised in Ireland was after the ancient custom of these taxes in England: a certain sum imposed upon the ploughed lands. This Wentworth, by an exertion of power, abolished; and appointed commissioners to levy the subsidies out of lands and goods. The frightened Commons, not knowing to what sum their grant, by this manner of

\* One of these was to enable restitution of impropriations, tythes, and other ecclesiastical rights to the clergy, with a restraint of alienating the same, and direction of presentation to churches. *Carte's Life of Ormond*, vol. I. p. 72.

† Wentworth writes thus of them: "Howbeit we set a fair style upon these laws, as beneficial only for the commonwealth, yet are there of them concerning fraudulent conveyances and wills, which, I dare confidently affirm, will be worth the King at least four thousand pounds a-year in his court of wards and alienations; a point my masters of the house dream not of."

levying, might amount, offered to raise each Anno 1634.  
 subsidy from thirty to forty thousand pounds a-  
 piece, exclusive of the nobility and clergy, pro-  
 vided they might have liberty to raise them by  
 commissioners of their own \*. With this large

\* “ This being the course, wrote Wentworth, which I did desire to lead them to, I gave them encouragement to go on with the consideration thereof, so as being hastened with their own fears, they come to that at the first word which I should have been glad might have been wrought at last with all our labors. I told them I would adventure to accept of their offer for the first four subsidies, but for the last two, in regard there was to be but one of them paid in one year, I would expect they should make them up forty-five thousand pounds a-piece, provided they should make it up neat money for the whole six subsidies : all which the next day the house, with all imaginable alacrity, assented to, leaving them the whilst the best contented that is possible, and ourselves free from their scandal and out-cry: We have likewise proceeded to the taxing the nobility, which comes to six thousand pounds sterling ; the clergy will, I trust, be about three thousand pounds ; so as by this time you see these six subsidies will be three hundred thousand pounds sterling good in his majesty’s Exchequer ; and the subsidy, which was never yet ascertained in this kingdom, will now settle at fifty-four thousand pounds sterling ; and I did purposely draw them up for the two last subsidies to five thousand pounds more a-piece than the rest, that I might so leave them precedents to the crown for future times.”

The house being divided into two factions, of Protestants and Papists, was the apparent cause which enabled Wentworth to carry every point for the crown in so triumphant a manner. He was so confident to render this parliament subservient to all the designs of the crown, that he advised the keeping it on foot by a prorogation, to give a sanction to other important projects. “ It can do no hurt, said he, considering it can exercise no power during the prorogation, and may at any time before the meeting be blown over with the least breath from his majesty.” To this the council of England answered, that the King held his resolution not to have it prorogued, but dissolved at Easter ; it being a known experiment that parliaments never grow better by sitting long. “ As for that Hydra, wrote Charles in a previous letter to Wentworth, take you good heed, for you know that here I have found it as well cunning as malicious. It is true that



Anno 1634.  
 Strafford's  
 Letters,  
 vol. I. p. 93.  
 vol. II. p. 8,  
 & seq.

grant, the greatest which ever was known to be raised in Ireland, Wentworth emancipated the crown from a debt of more than one hundred thousand pounds\*; bought off all the incumbrances on the revenue, which, by the commission on defective titles, licensing ale-houses, the sale of tobacco, the transportation of pipe-staves, the making the crown sole merchant of the commodities of salt †, and the increase of the money arising from the court of Wards, made an improvement of forty thousand pounds in the yearly income ‡. This business completed,

your grounds are well laid, and I assure you that I have a great trust in your care and judgment; yet my opinion is, that it will not be the worse for my service, though their obstinacy make you to break them, for I fear they have some grounds to demand more than it is fit for me to give." *Strafford's Letters*, vol. I. p. 233.

\* This debt was paid with scandalous defalcations, and the Commons were again rendered the dupes to take off the odium from the crown. "The Commons-house, wrote Wentworth, hath in their sub-committee proceeded to consider all the debts of the crown, together with the several natures and conditions thereof; and by means of such intelligence as I held amongst them, concluded such an advice in each particular as better could not be desired, so as I trust we shall discharge these debts better cheap than you could have looked for on that side, and yet not only draw his majesty, but ourselves too, forth of their blame or hard conceit, by shewing them the opinion and pleasure of the house, leading and concluding the course which is to be held in the discharge thereof. So here's an end of this matter, and a very excellent use made of them to the advantage of the crown." *Strafford's Letters*, vol. I. p. 402.

† "Salt, writes Wentworth, is of so absolute necessity, as it cannot stay upon his majesty's hand, but must be had whether they will or no, and may at all times be raised in price, so far forth as his majesty shall judge to stand with reason and honor; witness the gabell of salt in France." *Strafford's Letters*, vol. I. p. 193.

‡ According to Wentworth, the crown had got more by the laws which were enacted this parliament than the subsidies could be valued at. *Strafford's Letters*, vol. II. p. 18.

the

the next step taken was to resume the iniquitous attempt on the lands in Connaught, Clare, and the other provinces. This was directly contrary to the promise prescribed by the graces, for enrolling former surrenders, and passing new patents of estates, on the faith of which the crown had already raised so large a sum of money. The same project had been entertained by the ministry in the reign of James; it was then laid aside as dangerous: but the crown had now a considerable army on foot, the Exchequer was full, and the deputy a man determined to run all lengths in rendering Ireland a fruitful source of riches to his master. The King's title was asserted from the conquest of Henry II. and the juries of Roscommon, Slego, and Mayo, on assurances which were given them that they should have easy compositions, found the right of the crown to those particular counties, as well as to the province in general. The county of Galway, supported by the earl of Clanrickard, a man of great property and power in those parts, resented the indignant usage, and proved refractory. The furious deputy took fire at the affront, and caused the jury to be prosecuted for a combination with the sheriff to defeat the King of his right: They were tried in the Castle-chamber, and fined four thousand pounds each, sentenced to imprisonment till the fine was paid, and to make an acknowledgment on their knees of their offence\*.

Carte, vol. I.  
p. 82.

The terrors of this severity made those of Clare

\* The county of Galway sending agents into England to solicit their affairs, they were, on their return to Ireland, imprisoned by the deputy for leaving the country without permission.



Anno 1634. and Ormond \* acknowledge the King's claim, and depend on his mercy for the renewal of their patents, which increased the revenue twenty thousand pounds a-year. Moreover, the city of London was sued for non-performance of articles in the plantation of Londonderry and Colerain, fined in the Star-chamber seventy thousand pounds, and the lands adjudged to be forfeited; this was again an addition of eight thousand pounds a-year. The crown rendered thus wealthy by the treachery and tyranny of the deputy, his next step was to exert that vigor the government had acquired, in over-turning the constitution of the church, establishing the mode of his faith, and exalting hierarchical power to the same pitch it had attained in England. By the sole authority of the deputy, the High-commission court was erected immediately after the dissolution of the parliament. The zeal he had expressed for the church was the loadstone with which he had drawn the attention and confidence of his master: his success in it was the cement with which he hoped to fix his affection. From the first of his apostacy, he had knit himself in a close confederacy with Laud, as the man from whose absolute sway over the King he had most to dread, and from whose unbounded interest he had every thing to hope. Thus, whilst he flattered Charles with the prospect of an uncontrouled unlimited authority, he canted with Laud in his own style; That sacrilegious hands had carried away the patrimony of the church, and left God's portion naked to posterity; that it could not be recovered unless as violent and extraordinary means were

Strafford's  
Letters,  
vol. i. p. 151,  
381.

\* The lord Ormond was very officious and instrumental to the deputy's success in this business.

used for the raising it again as there had been for the pulling it down. This was the kind of language he continually used in his correspondence with this prelate; at the same time conveying through him intelligence to the King, and those kind of insinuations which moulded him to all the purposes of his private views. Wentworth, not only in passing the new patents, took particular care of the church, but in the most oppressive manner obliged proprietors, by arbitrary decisions in the Castle-chamber, to relinquish the advantages they had gained by former leases, after the affair had been otherwise determined by a trial at common law; and this by the single virtue of a letter of direction from the King to proceed in all questions concerning the patrimony of the church, and that such causes should be determined by commissioners appointed by the deputy, and not elsewhere\*.

Strafford's  
Letters,  
vol. I. p. 380,  
251, & seq.

\* The earl of Cork, a very opulent and powerful nobleman, was proceeded against in this manner in the Castle-chamber: he was not only compelled to relinquish upwards of two thousand a-year to the church, but underwent a severe fine, and was commanded to pull down a very fine monument which he had built at a great expence in the cathedral of St. Patrick at Dublin, because Laud took offence that it was too near, and elevated above, the high altar.

On this subject of determining causes, Wentworth writes in the following manner: "I find that my lord Faulkland was restrained by proclamation not to meddle in any causes betwixt party and party, which certainly did lessen his power extremely. I know very well the common lawyers will be passionately against it, who are wont to put such a prejudice upon all other professions, as if none were to be trusted or capable to administer justice but themselves: yet how well this suits with monarchy, when they monopolize all to be governed by their year-books, you in England have a costly experience: and I am sure his majesty's absolute power is not weaker in this kingdom, where hitherto the deputy and council-board have had a stroke with them." "I know no reason, writes Wentworth to Laud, but you may as well rule



Anno 1634.

Carte's Life  
of Ormond,  
vol. I. p. 77,  
& seq.

The opulency of the clergy being thus provided for, the next point was to bring the church of Ireland to a perfect conformity in her doctrine and discipline to that which was established in England. A convocation being called to manage this business, several members made material objections to the body of canons they were required to subscribe. The lower house appointed a select committee to consider the matter. Wentworth understanding that the judgment of this ecclesiastical assembly was not likely to be favorable to the design in hand, sent for the committee, and after reprimanding them in an insolent manner for their presumption in attempting to determine articles of faith without the privity and consent of state or bishop, he enjoined dean Andrews, chairman of the committee, not to report any of their transactions to the house of Commons, which was then sitting; and commanded dean Lesly, their prolocutor, that if any of them propounded such a question not to put it to the vote, but break up the sitting. On this tyrannical proceeding, it was moved to petition for a free synod; but such was the terror which the deputy's violence and severity occasioned, that no one member would take upon him to draw it up or present it. Wentworth not approving of the canons which the complying pri-

the common lawyers in England as I, poor beagle, do here; and yet that I do and will do, in all which concerns my master's service, upon the peril of my head. I am confident that the King, being pleased to set himself in this business, is able, by his wisdom and ministers, to carry any just and honorable action through all imaginary opposition, for real there can be none; that to start aside for such panic fears, phantastic oppositions, as a Prynne or an Elliot shall set up, were the meanest of folly in the whole world." *Prynne's Trial of Laud*, *Sirafford's Letters*, vol. I. p. 201, 173.

mate

mate Usher by his command had undertaken to frame, drew them up himself, more exactly after those of England, obliged the primate to get it voted according to this form in the upper house: and by the force of his authority, and the pusillanimity of the members of the lower house, it was carried there, one individual only dissenting. Notwithstanding so outrageous an insult on Law and Liberty, such was the confidence of this madman, that he wrapped himself up in the opinion of an entire security, on the bare shelter of a letter from the King approving these exploits.

Thus assured, his conduct during the course of his government was an uninterrupted series of exertions of despotism; and his whole behavior favored of the highest strain of frantic insolence. He reprimanded the earl of Kildare, the first peer of Ireland, for opposing his propositions to the parliament; and afterwards obliged him, without any legal proceeding, to submit his title to an estate to his decision, and imprisoned him a whole year on this business. The lord Mountnorris, a nobleman who had long held employments under the government, an officer in the army, and now vice-treasurer, being disgusted with the deputy's behavior, spoke something slightly of him at the chancellor's table \*: He was for those

\* The charge against Mountnorris was this: On being told that a kinsman of his had by accident hurt the deputy's foot, he having the gout, the lord Mountnorris said, "Perhaps it was done in revenge of that public affront my lord deputy did him formerly; but I have a brother who would not have taken such a revenge." The words spoken by this nobleman, according to Clarendon's relation, were as follow: Wentworth had given Mountnorris's kinsman a blow for having accidentally hurt his foot; which being spoken before Mountnorris at the chancellor's, he observed, that the gentleman had a brother who would not have taken such an affront.



Anno 1634. words hurried before a court-martial, without knowing his crime, tried for mutiny against his general, and in the space of two hours condemned to die. The King gave him his life, but he was dismissed from the army, obliged to make submission to the deputy, and acknowledge the justice of the sentence; he was imprisoned for three years. Nor were these all the severities he met with from Wentworth, who in an illegal manner put him out of the possession of an estate he had enjoyed for several years.

Carte's Life  
of Ormond,  
vol. I. p. 86.  
Rushworth,  
vol. II. p. 26.  
Strafford's  
Letters,  
vol. II.  
p. 230, 252,  
307.

Sir Piers Crosby had voluntarily served, with great reputation, in the expedition to the isle of Rhee; to him was attributed the principal means of saving the English forces in their retreat. He had for these reasons been made colonel of one of the standing regiments in Ireland, and counsellor of state. This gentleman resenting the high manner in which things were carried in parliament, exerted himself vigorously against the measures of the crown. Wentworth sequestered him from the council-board; and a paper soon after coming out, which reflected on the conduct of the deputy, Sir Piers was by his order arrested by the captain of his guard, and committed to prison; whilst Sir Philip Manwaring, the secretary of state, broke into his study, rifled his papers in hopes of finding a copy of the libel. Sir Piers was afterward, by the King's direction,

Of the witnesses against Mountnorris was the lord Moor, who being of the court-martial, was at the same time evidence and judge. The King deprived Mountnorris of all his offices, and bestowed the vice-treasurership upon Sir Adam Loftus, a creature of Wentworth's, and one who had been an evidence against Mountnorris. *Nelson*, vol. II. p. 59. *Strafford's Letters*, vol. I. p. 499, & seq. *Clarendon's Hist.* vol. I. p. 174.

removed

removed from the council-board \*; and, on another suspicion of the same kind, he and the lord Mountnorris, with the lord Esmond and others, were prosecuted by the deputy in the Star-chamber in England †. The earl of Holland being necessitated, to his great regret, to give a testimony on oath on the conversation which had passed between him and Crosby on Wentworth's particular, a great fine and damages, according to the custom of this court, was given against him: He would have absconded, but the implacable deputy urged the King to issue out a warrant to apprehend him, and keep him in custody till he had answered the information lodged against him in the Star-chamber.

Rushworth,  
vol. II.  
p. 332.

Adam viscount Loftus of Ely, a peer of Ireland, and the chancellor of the kingdom, was imprisoned by Wentworth, and obliged to deliver up the great seal, for not submitting to an arbitrary decree of the deputy and council, on a pe-

\* The earl of Ormond, who had seconded with great zeal every motion from the court, was made a counsellor in his room.

† The subject of the prosecution was, that the defendants had spread a report that one Esmond died of some blows he received from the lord-deputy. In Laud's speech in the Star-chamber on this occasion, he said, "That as kings were lively pictures of God drawn short, so deputies were representations of kings. The state could not be safe unless every one of its officers were upheld in their authority; and those who reported any circumstance against them ought to be punished, whether the report was true or false." Finch, the keeper, said something to the same purpose. This doctrine, that a libel is not less penal for being true, first broached in the Star-chamber, has since been introduced in the King's-Bench.

The sentences of Cottington, Finch, and Laud, were severe against all the defendants. The lord Mountnorris escaped, because nothing could be proved against him. *Rushworth*, vol. III. p. 891, & seq.

tition



Anno 1634. Larrey, vol. I. p. 187. titution of the chancellor's father in-law, Sir John Gifford \*. This act of power was even contrary to his instructions ; for in them it was regulated, that the chancellor might appeal from the deputy and council to the King : But in all these undue exertions, Wentworth was strongly abetted by the King, whose whole conduct in regard to Ireland was directed by wires managed by the deputy, and drawn through the channel of Laud.

The Dutch were at this time making great advances in commerce, and a kind of rivalry subsisted between them and the subjects of Great Britain in the article of trade ; nevertheless, these republicans were strongly favored by the anti-courtiers in England, and those whose bias was at all on the side of Liberty. On the contrary, the high monarchical and ministerial faction were as much attached to Spain †. Charles still fondly inclined to that admired seat of regal sublimity, and was shocked with the independent spirit of the haughty Dutch ; who, notwithstanding all prohibitions to the contrary, still persisted to fish upon the British coast, and at length asserted a right founded upon immemorial possession. This produced a literary controversy between the famous Hollander, Hugo Grotius, and the English

\* This petition was in favor of the chancellor's wife, on a difference between her and her husband, concerning the possession of an estate. Wentworth was accused of a love-intrigue with this lady, for whom he exerted himself with such violence. On her death, several amorous letters were found in her cabinet from him. Among other things which he alleged as heinous crimes against the chancellor, was the giving a negative voice on the voluntary contributions for the army. *Rushworth*, vol II. p. 725.

† The Spanish pirates taken on the coast of Ireland were treated by Wentworth with great lenity and indulgence. *Stratford's Letters*.

Selden, two men eminent for their learning, for their opposition to the encroachments of power, and their sufferings from the tyrannical government of their respective countries. The book written by Grotius was entitled *Mare Liberum*; and the answer to it by Selden, which asserts the exclusive right the Kings of England had to the dominion of the seas, *Mare Clausum*. Charles readily embraced a plausible pretext to quarrel with the Dutch, and at the same time to put the finishing stroke to that new model of government, which he, with his two ministers Wentworth and Laud, had in a manner established in Great Britain. This was no other than to graft on the subverted constitution a right to levy money on the people, and thus entirely exclude parliaments. Without such a prerogative, the only pillar to support despotism, he held a very precarious tenure in the tyranny he had usurped. The immense sums otherwise extorted from his people were but barely sufficient to maintain the more than Eastern splendor of his court, and defray the necessary expence of his government. Should any occasion then present itself which required an extraordinary supply, he must perchance be enforced to demand it in a legal manner of his people, by the old method in parliament. This object of terror, like the sword of the tyrant Dionysius, hung suspended over his head, and those of his ministers, ready to crush his assumed despotism, and execute justice on those parricides.

On this occasion, Noy, who, ever since he had been vested with office, had used his drudging talents to set a legal color on every ministerial project, was referred to. Noy fell again on the expedient of ship-money, grounding his opinion on obsolete usages and customs, for furnishing a

Project of  
Ship-money!



Anno 1634. certain number of ships for defence of the seas; a business for which, since the more frequent use of parliaments, those assemblies had ever allotted tonnage and poundage, a tax never yet given on other pretexts. On these authorities, produced by Noy, writs were issued out, setting forth that the seas were infested with pirates, and commanding the city of London, on their allegiance, and under the forfeiture of all they could forfeit, to fit out seven ships of war: Power was given by the said writs to assess all men in the city, and to imprison those who should be rebellious and contrary in the premises, there to remain until farther orders should be given for their delivery. Such writs were likewise directed to all the counties of England\*. With these writs went instructions from the council to the sheriffs of the several maritime counties for assessing and levying ship-money: Those who refused payment of their portion were to be distressed, and their goods sold for the payment, without any respect of persons, except

\* Previous to the issuing these writs, two proclamations had been published: One of them forbade any sea-faring men, subjects to the crown of England, to enter into the service, of any prince or foreign state, or to be employed out of the realm, without his majesty's licence, or the licence of the admiral of England; and if any be in such service, that they return, under a great penalty. The other had in it much of the character of the Stewart family: It prohibited the subjects of any of the King's nations and kingdoms to presume to carry the union-flag in the main-top, or other parts of their ships; but that the same union-flag be still reserved as an ornament proper for the King's own ships, and ships in his immediate service and pay, and no others. And his majesty's farther will and pleasure is, that all other ships of his subjects of England, or South-Britain, bearing flags, shall from henceforth carry the red cross, commonly called St. George's Cross, and that all the ships of the King's subjects of Scotland shall from henceforth carry the white cross, commonly called St. Andrew's Cross. *Rymer's Fœdera*, vol. XIX. p. 549.

clergymen,

clergymen, who were to be treated with the deference due to their persons and callings. If the constables, bailiffs, and other officers neglected to do their duty, they were to be bound over to answer their fault at the board; and their sheriffs were to appoint such instruments as they should choose to see the business affected. Moreover, all such sums as should be left unlevied by the sheriff, at the end of the year, were to be levied upon him by his successor.

The city of London, on receiving their writ, set forth, that by grants and acts of parliament they were exempt from such a charge; and petitioned that they might enjoy their privileges. On the mayor of London's receiving a reprimand, with the city-council, who were admonished to take heed how they advised the city in a case so clear for the King, wherein his majesty had first consulted with his learned counsel and his council of state, they yielded, though with great murmurings. Several individuals would not pay till after imprisonment, that it might stand upon record they were forced to it. Some opposition likewise arose in the counties of Devonshire and Suffex; but on the sheriffs beginning to distrain, and on the deputy-lieutenants, and other gentlemen, who had signed a petition, being sent for up to appear before the council, and receiving a severe reprimand, they submitted, and paid their money.

Noy the attorney-general, who countenanced this measure, died before any progress was made in it. He had received no other favor from the crown but the laborious office of attorney-general—a narrow recompence for the sacrifice of virtue, honor, and a good name. From being a great patriot, and an oracle for precedents favorable

Strafford's  
Letters,  
vol. I. p.

358.

372, & seq.

Death of  
Noy.

His character.



Anno 1634.

able to the powers of parliament, he became so fascinated to the designs of the monarch, through the seduction of court-solicitation, that he was the most keen of all the ministerial gang in every illegal measure which the times produced, in all oppressive prosecutions, the peculiar business of his office : Equal to a place of this sort, he filled it with the highest degree of infamy. As his demerits were great, so was he completely hated by the public : After languishing out a long illness, he died without being regretted by his own party, on account of his bodily infirmities, which prevented his being so active an agent as the business in hand required ; whilst, at the same time, he lay under the infernal odium of being the propounder of ship-money \*. Sir John Banks was promoted to the office of attorney-general in his stead. Sir Robert Heath, the chief-justice of the Common-Pleas, whose merits on the side of government have been recorded, was now found not to have quite villainy or hardness enough for the present designs : he was removed, and Sir John Finch, the queen's attorney, appointed in his place. It was resolved that ship-money should be extended to the inland as well as the maritime counties, and made a general tax all over England †.

\* Laud to whom he had devoted himself, observes thus of his death : “ I have lost a dear friend, and the church the greatest she had of his condition, since she needed any such.” The public, on this catastrophe, sported the following witticisms : That his body being opened, there were found in his head a bundle of proclamations, in his maw moth-eaten records, and in his belly a barrel of soap. *Laud's Life by Prynn*, p. 19. *Rushworth*, vol. II. p. 213.

† According to the rates on the new plan, this tax was to bring in near three hundred thousand pounds.

The very errors of the government were at Anno 1634. this time a favorable circumstance for surprizing the people into a kind of acquiescence to this exorbitant stretch of power. Shipping had been wholly neglected; the naval force of England was on so contemptible a footing, that the commerce of the country was left unprotected. The Dutch not only continued to fish on the British coast, but insulted its subjects. The Algerines paid yearly visits to the several islands in its empire, and committed great depredations, carrying the natives prisoners to France, and from thence shipping them off to Algiers. This made the merchants and people in general, whose commercial interest was strongly affected, more patient in the present circumstances. This patience threw the court and ministry into a perfect security. Charles and his queen made a magnificent progress beyond the Trent, where they were received by the vulgar with a joy and expence as if no cause of dissatisfaction had been given\*.

\* On this occasion the marquis of Newcastle expended six thousand pounds in an entertainment given to the King and queen at his own house; an entertainment almost equally expensive by this nobleman, on the King's journey to Scotland, has been already mentioned. This voluntary tax to the pleasures of his sovereign had not its motive from the exuberance of fortune which he possessed, but from his peculiar vanity, or some little personal civility he had received from the court. He wrote to Wentworth on the following particulars: "That children came on apace; that his weight of debt lay upon him; that Welbeck that summer had not recovered him of the prodigal disease; concerning Wentworth's trying his friends in his behalf." To this letter Wentworth returned the following advice and instruction: "That on the King's journey from Welbeck, Newcastle should gently renew a motion which had been made in his favor; that if the King declined granting it, he should testify that he was ready cheerfully to acquiesce in his majesty's good pleasure; that he should farther beseech the King to reckon of him as a servant



Anno 1634.

Death of Sir  
Edw. Coke.His charac-  
ter.

It was in this year the nation sustained the loss of that distinguished patriot Sir Edward Coke, who died in the eighty-sixth year of his age, at his mansion-seat in Buckinghamshire, where he had spent the remainder of his days from the year 1628-9, in a quiet retirement, universally beloved and respected. From a just sense of the services this great man rendered his country in the latter and more experienced period of his life, it were to be wished that all his failings had been buried in a total oblivion; but a strict regard to truth, that catholic virtue in an historian, renders it necessary to enter into some parts of his conduct, the defect of which is so glaring, that nothing but a long succession of patriotic exertions could have rescued his memory from that pit of infamy to which the base time-servers of those ages have so deservedly been condemned. Very early in life he was especially noticed by Burleigh for the admirable talents he displayed at the bar, and was frequently consulted on the queen's affairs. Burleigh found so much solid judgment in him, that he promoted him before his own kinsman Bacon, whose law-learning he accounted some-

who would lay down his life for him, whenever he should please to require it; that he did not covet the favor for any private bettering of his fortune, but merely that he might have the happiness to spend his life near that person whom he did not only reverence as his sovereign, but infinitely love and admire for his piety and wisdom." This anecdote, though a trifling one, illustrates the humors of the nobility, the extreme passion they had for a domestic attendance on the persons of the King and queen: it farther shews the transcendant folly and vanity of Newcastle, in the spending upwards of ten thousand pounds with a view only to get a place at court. He was some time after this gratified in his desire, by being appointed tutor to the prince. *Sirafford's Letters*, vol. I. p. 101, 274.

what

what superficial \*: Coke was made Queen's solicitor, and then her attorney. In these capacities he was consulted by the ministers in all points of difficulty; and he too often gave a legal coloring to the most tyrannical of their practices. But the very exceptionable parts of his conduct were the prosecutions of Essex and Raleigh, who were to be wrangled out of their lives to satisfy the infamous ends and caprices of a court. In these businesses he stuck not to take the most unjust and illegal methods to compass the condemnation of the two sufferers. But from the time when he attained a more exalted station in the law, after he was made chief-justice of the Common-Pleas, in the year 1606, he began to shew himself no friend to a boundless prerogative, objecting in the points of proclamations, prohibitions, and other such matters. His noble and dignified behavior on king James's calling him to account for his asserting the rights of the courts of common law, and arguing the point of commendams, have been already mentioned. When he began to find, in the experience of the unjust usage he had received, the venom which lay in prerogative; when he began to consider the pretensions of the Stewart family; that the consequence of such claims, if allowed and established in the constitution, would render the line of law of no effect; that the very forms of it would be subverted to the ends and purposes of regal tyranny; he from this time exerted in the house of Commons † an unconquer-

\* This was the ground of that hatred which Bacon ever bore to Coke.

† On James's displeasure, Coke was displaced from his office of lord-chief-justice, and thus enabled to serve his country in parliament.



Anno 1634. able zeal for correcting abuses, for establishing the authority of the law, and confining the prerogative to its proper bounds. From these most laudable attempts he was not to be diverted, either by the threats or cajolements of a court: for at the period when he was much trusted and employed, after being re-taken into favor, he was so far from acting the part which on these considerations was expected of him, that, in the parliament which met in the year 1621, he towered beyond all preceding patriots in the abilities he shewed in guiding the counsels of that assembly, in the strength and propriety of the arguments he urged for the authority and privileges of parliament, turning by this conduct the smiles of the court into a commitment to the Tower, and a rifling his papers. He, to his everlasting honor was, in the succeeding reign, the man who proposed and framed the Petition of Right. The cares of the greatest part of his life were not only for the age he lived in, but that posterity might feel the advantages of his almost unequalled labors. He was the first who reduced the knowledge of the English laws into a system. His voluminous writings on this subject have given light to all succeeding lawyers; and the improvements which have been made in this science owe their source to this great original: the services he rendered his country in this respect are invaluable. But whilst he labored to his very last moments to render the law intelligible, and consequently serviceable to his fellow-citizens, he continued to be oppressed in the most illegal manner by the government. Secretary Windebank, by virtue of an order of the council for seizing seditious papers, entered his house at the time when he was dying, took away his Commentary upon Littleton, his

History

History of that Judge's Life, his Commentary Anno 1634.  
upon Magna Charta, his Pleas of the Crown, and  
Jurisdiction of Courts, with fifty-one other ma-  
nuscripts, together with his will and testament.  
This last was never returned, to the great distrac-  
tion of his family-affairs, and loss to his numerous  
posterity.

In the year 1635, Charles fitted out a fleet of Anno 1635:  
forty sail of ships, under the command of the  
earl of Lindsey, and a squadron of twenty ships,  
under the earl of Essex. Their instructions were  
to secure the narrow seas, and the trade of Eng-  
land. The conjoined fleets of the French and  
Dutch, on the sight of this formidable armada,  
retired towards their own harbors, and by this re-  
treat left the English undisputed masters of the  
seas; the great benefit whereof accrued to the  
Spaniards, for the Austrian Netherlands were  
preserved from being over-run by the united  
force of France and Holland. Notwithstanding  
this service, and the loan of an Irish regiment  
under the command of colonel Preston, who de-  
fended Bruffels against the French, a treaty of  
peace was concluded at Prague between the em-  
peror and the elector of Saxony, and nothing  
stipulated in favor of the Palatine family: Thus  
Charles, whilst he insulted his own people, was  
treated with scorn by foreign powers. Algernon  
earl of Northumberland, a personal favorite with  
the King and queen, was, on some distaste  
which had been taken against Lindsey, made  
lord-high-admiral, and a command given him of  
sixty sail of large ships; the greatest fleet England  
ever had put to sea. A proclamation was issued,  
forbidding all who were not natives of Britain  
fishing upon its coasts, excepting those who  
should obtain licences. Some Dutch ships were  
O 3 sur-



Anno 1635. surprized and sunk; and that people consented to pay thirty thousand pounds for the privilege of fishing.

Charles now seems to be in the meridian of what he termed glory: he had fairly placed the yoke on the neck of his own subjects, and, by the seizure of their purse had found means to humble the Hollanders, whose independent flourishing state had ever been an eye-sore to the Stewart family. Notwithstanding the formidable power of the English navy, the people looked with horror and disdain on the means by which such a force was acquired: a fleet was indeed a desirable object; but was it a recompence for the sacrifice of all their constitutional rights? It would be impertinent to repeat the obvious objections which lay level even to the eyes of the vulgar, against the illegal means by which it was supported: murmurs and oppositions continually increased against ship-money\*. Several people sued the magistrates and other officers appointed to levy it: Among these was the lord Say, a nobleman who had ever been one of the forwardest in all the firm and spirited measures which had been taken by the parliament to stop the progress of despotism. Chambers, who had before suffered so severely for his refusal to yield to the imposition of tonnage and poundage, was sent to prison by Sir Edward Bromfield lord-mayor, for refusing to comply with this tax: he again exerted spirit enough to appeal to the justice of the long-suspended laws, and brought an action against Bromfield for a trespass and false imprisonment.

\* In this year 1635 the elector-palatine, and his brother prince Rupert, came over to England to concert measures with Charles for their restoration; and the queen was brought to-bed of a daughter, the princess Elizabeth.

Sir Robert Berkley, one of the justices of the court, would not suffer Chambers's counsel to argue against the legality of ship-money, avowing, in the face of the court, serjeant Ashley's doctrine, that there was a rule of government which superseded the rules of law. The lord-keeper Coventry, who had been severely reprimanded by the King for once mentioning a parliament, was now, on this correction, grown as pliable as was desired \*: he made a copious speech to the judges of assize to the following purpose: That they should in all their charges instruct the people that they were bound in duty to contribute with alacrity to the tax of ship-money. The city of London petitioning an abatement of their quota, received a threatening answer from secretary Cook; and Charles was now so sure of the thorough servility which reigned amongst the expounders of the law, that, to remove all objection, he sent the following case to be resolved by the judges.

Anno 1635.  
Rushworth,  
vol. II. p.  
323, & seq.

Anno 1636.  
Rushworth,  
vol. II. p.  
334.

“ When the good and safety of the kingdom in general is concerned, and the whole kingdom in danger, whether may not the King, by writ under the great seal of England, command all the subjects of our kingdom, at their charges to provide and furnish such a number of ships with men, victuals, and munition, and for such time as we shall think fit, for the defence and safeguard of the kingdom from such danger and peril; and by law compel the doing thereof in

\* On this pliability of the keeper, Wentworth makes this observation: “ If it should please God his majesty begin to apply *premium & pœna* lustily and roundly, you will find he may have excellent use of him, and some others too; for I must tell you, a sow's ear may prove good souse, albeit no filken purse.” *Sirafford's Letters*, vol. I. p. 163.



Anno 1636. cases of refusal or refractoriness? and whether, in such a case, the King is not the sole judge of the danger, and when and how the same is to be prevented and avoided?"

Whitlock,  
p. 24.

Finch distinguished himself as much about this business as he had done before in the course of his office as speaker of the house of Commons. He closeted the judges, and at length, by the joint means of flattery and threats, extorted from them the following opinion: "That the King might, on the occasions specified in the question, compel the subjects to furnish aid; and that in such a case he was the sole judge both of the danger, and when and how the same might be prevented." Hutton and Crook were clearly of opinion that the King was not the judge of the danger, and that this was one of those cases in which he was obliged by the constitution to assemble and consult with his parliament; since no man's property could be taken away from him, other than by the legislative authority, which the King by himself had not. After a long and solemn argument, Hutton and Crook seeing themselves opposed by the majority, at length, to avoid danger, yielded, and subscribed the opinion.

This point gained, Charles's next step was to enter this opinion on record in all the courts at Westminster\*. The lord-keeper Coventry by his orders assembled all the judges in the Star-chamber, and, to the confusion and amazement

\* The making the extra-judicial opinions of the judges a law, by which the courts of justice were to proceed in judging the suits which might afterwards be brought about this affair, is one of the extraordinary precedents peculiar to this reign. It was what had never been done by any authority less binding than an act of parliament.

of the greatest number of them, read in full court the question, with their opinion ; and afterwards addressed the assembly in the following strain :

“ My Lords,

“ This being the uniform resolution of all the judges’ opinion, with one voice, and set under their own hands ; I say, this being so resolved, as they do here express upon every man’s particular studying of the case, and upon a general authority among themselves, it is of very great authority : for the very lives and lands of the King’s subjects are to be determined by the judgment of these reverend judges, much more a case of this nature, which God knoweth cannot be burthensome to any, but is of a singular use and consequence, and for the safety of the whole kingdom. The commandment from his majesty is, that I should publish this your opinion in this place, and give order that it should be entered in this court, in the high court of Chancery, in the courts of King’s Bench, Common-Pleas, and Exchequer ; for this is a thing not fit to be kept in a corner. And his farther command is, that you the judges do declare and publish this general resolution of all the judges of England, throughout all parts of the kingdom, that all men may take notice thereof, and that those his subjects who have been in any error may inform themselves, and be reformed. You have great cause to declare it with joy, and you can hardly do it with honor enough to the King, that in so high a point of his sovereignty he hath been pleased to descend and communicate with you his judges, which sheweth that justice and sovereignty doth in his majesty kiss each other.

His



ANNO 1636. His pleasure farther being, that you let all know, that it is not in his purpose by this resolution to stop or check the actions or suits which any have brought, or shall bring, concerning this; for it is his majesty's command, that all such as proceed in an action about the same shall have equal and mete justice, and that they be suffered to proceed in course of law, so as you call the King's learned counsel unto their proceedings, that they may not be surpris'd. Now, my lords, I have little more to say; but this I am sure of, that if any contrary opinion shall remain among men, it must proceed from those who are sons of the law, or from some not towards the law. Of the latter I will say, *Felices demum essent artes, si de illis solum judicaretur artifices*. And as to the former, you the judges of the realm are, and ever have been, accounted the fathers of the law; then will it become the son to dispute against, or take upon him to be wiser than, the father? Having thus delivered to you that which I received in commandment from his majesty, as his majesty doth, so do I, leave it to your judgment."

Could there be any aggravation of the injury the subject sustained by the violation of their rights in the exacting ship-money, it would be the provoking insult of thus imposing it as the law of the realm. It is impossible to conceive the joy this prostitution of justice gave the ministry, how they triumphed, how they exulted, in their fancied security: "This for ever vindicates the royalty, said they, from the conditions and restraints of subjects; this establishes the King's throne in wealth, strength, and glory, far above any of his progenitors \*."

\* The following are opinions written by Wentworth on this extraordinary occasion: "It is plain indeed, that the judges

Though Charles was from his disposition and education infinitely attached to arbitrary principles in government, yet he did not want for stimulations to urge him on towards his natural bias. The queen, to whom he was dotingly attached, entertained him continually with the example of France. The uxorious monarch listened with pleasure to the seductive tale, That that crown had, contrary to the fundamental principles of the constitution, acquired a power to impose taxes and levy money without parliaments; and by its resolute and wise conduct had entirely changed the nature of the government. On the topic of French politics, she insinuated those maxims which Charles held in the greatest veneration, that the power, opulence, and authority of the French clergy were the firm supports of the crown. In this she was well seconded by Laud, and Charles grew every day more fond of a religion whose doctrine was so favorable to those good purposes\*. Thus encouraged, the

judges declaring the lawfulness of the assignment for the shipping, is the greatest service that profession hath done the crown in my time. But unless his majesty hath the like power declared to raise a land-army, upon the same exigence of state, the crown seems to me to stand but upon one leg at home, to be considerable but by halves to foreign princes abroad. Yet sure this methinks convinceth a power for the sovereign to raise payments for land-forces, and consequently submits to his wisdom and ordinance the transporting of the money and men into foreign states. And if by degrees Scotland and Ireland be drawn to contribute their proportions to these levies for the public, *omne tulit punctum.*" Wentworth persuades the King still to abstain from entering into the broils on the continent; and says, "That the people must be first accustomed to these new levies, lest they grow peevish and backward in their payments, when they find his majesty not at so entire leisure to discipline their untowardness as in time of peace." *Strafford's Letters*, vol. II. p. 61, & seq.

\* Orleans the Jesuit writes, that the queen was very zealous for restoring the Catholic religion in England; and being



Anno 1636. Papists threw off all restraint or decency of deportment: Notwithstanding the severe laws still extant against priests, many Jesuits openly appeared in that character; mass was publicly resorted to at Somerset-House, which was erected into a kind of convent for the Capuchins. With these insults, the Papists entered into all those projects which were thought the most grievous to the subject: The corporation of soap-makers were almost all of that sect.

Scheme of a reconciliation with the church of Rome. Rushworth, vol. II. p. 376.

There seems to have been this year a regular plan settled of bringing about the favorite scheme of a reconciliation with the church of Rome. One Gregorio Con, a Scotchman, came into England in the character of the pope's nuncio\*; and Sir William Hamilton, a Scotchman, was sent to Rome, as an agent for the English court†. Laud had several private conferences

being full of that spirit which warms the blood of absolute monarchs, a limited authority to be used with art seemed to her no better than servitude, which caused her to make the utmost efforts to rescue the King her husband and herself from it; that she always kept about her a nuncio of the pope's, and entertained correspondency with the Catholic lords; that she stood up for every thing which regarded the church with authority, and sometimes with heat; and having a considerable number of clergymen about her, who were restored to her by the peace, she had frequent controversies with the zealous Protestants, wherein the King, who loved her, gave her full liberty, and sometimes supported her. *Father Orleans's Hist.* oct. ed. 1722, p. 22, & seq.

\* Con brought over with him a large cargo of relics of saints, and medals of the pope, with other things of the same kind. It is not to be imagined how many people of the higher rank, especially women, were made converts, by the queen's influence, the assiduity of the nuncio, and the effects which this trumpery wrought on their imaginations.

† Charles laid aside that formality he used to his own subjects, and grew familiar with Con; he admitted him in all his parties. Propositions were made on both sides towards the

with one Davenport, who, under the name of Santa Clara, published a work, in which he endeavored to reconcile the Protestants to the church of Rome. Popish primers and catechisms, and other books of the kind, were imported with impunity, contrary to the statute of the third of James. At the same time, the severest penalties were imposed on a custom-house officer, who by negligence had suffered a parcel of Geneva bibles to pass unnoticed. Passages against Popery were expunged from all the books whose publications were licensed \*. Almost

*Prynne's  
Trial of  
Laud, p.  
349, 543,  
& seq.*

*Ibid, p. 252,  
& seq.*

the desired reconciliation, in a book entitled, "The English Pope." It is affirmed, that when Con undertook the management of that affair, matters began to grow towards an agreement. This Laud's own creature and bosom-friend, Heylin, does not deny, but vindicates it in the following strain: "The greatest part of the controversies between us and the church of Rome, not being in the fundamentals, or in any essential point in the Christian religion, I cannot otherwise look upon it but as a most pious work to endeavor an atonement in the superstructures." *Heylin's Life of Laud, p. 412, & seq.*

\* Laud caused a decree to be made in the Star-chamber, of which the following is an abstract: That all books concerning the common laws shall be licensed by the lord-chief-justice; all books of history belonging to the state, by the secretaries of state; books of heraldry, by the earl-marshal; and books of divinity, physic, &c. by the archbishop of Canterbury and bishop of London, or the chancellor or vice-chancellors of either of the universities; provided always, that the chancellor or vice-chancellors of either of the universities shall license only such books as are to be printed within the limits of the universities, not meddling either with books of the common law or matters of state: That every person authorized to license books shall have a copy of the intended publication, which is to be kept in the public registers of the lord-archbishop, or with, &c. &c. to the end they may be secure that the copy so licensed be not altered without their privity: That every importer of books, before they expose any to sale, shall give a true catalogue to the lord-archbishop of Canterbury, or the lord-bishop of London: That no importer shall presume to open  
any



Anno 1636. every thing, however gross, was permitted

any parcel of books coming from beyond the seas, nor any officer belonging to the Custom-house suffer the same to pass, till the lord-archbishop of Canterbury, or lord-bishop of London, appoint persons to view the same: That if there be found any offensive books, the lord-archbishop of Canterbury, and lord-bishop of London, may cause the offender to be punished: That every person who hereafter prints any books, ballads, charts, pictures, or any other things whatsoever, shall put their names to the same, and the name of the author: That no person shall import any English books, whether the same have been formerly printed or not: That no person shall erect any printing-house, or let any room for that purpose, without giving first notice to the company of stationers: That no workman shall make any printing-press, no founder cast any letters, no one import any from beyond sea, nor buy any, without first acquainting the master and wardens of the company of stationers. Farther to check publication, this decree ordained, that there should be but twenty master-printers allowed, except his majesty's printers, and the printers allowed for the universities: That the archbishop of Canterbury, and bishop of London, were to fill up vacancies: That every person allowed to have the use of a press should be bound in three hundred pounds penalty not to print any thing which was not lawfully licensed: That no allowed printer should keep above two presses, except the master-warden of the company, who was permitted to keep three: That no person reprint any book, though formerly printed with licence, without obtaining a new licence: The master-warden of the company not to keep above three apprentices; a master-printer of the livery of the company not above two; and a master printer of the yeomanry not above one: Because a great part of the secret printing is occasioned by the want of employment for journeyman-printers, every journeyman-printer free of the company shall be employed within the company, and the master-printer shall be obliged to employ them, though their apprentices can do the work: That no master-printer shall employ any who have not been apprentices to the mystery of printing. The same regulations and restrictions were laid on the founders of letters, who were to be but four in number. For the better discovery of printing in corners without licence, any printers appointed by the archbishop of Canterbury, or bishop of London, to have power and authority to take what assistance they think needful, and search any houses and shops they think fit, and bring the delinquents before the

which favored the Romish tenets \*. A re-publication of the old standing books against Popery was refused †. The laws were almost every day suspended in favor of Papists ‡. A severe passage against this sect was omitted out of the service compiled for the fifth of November; whilst all the Protestants who did not conform to the new mode of worship were treated with the utmost rigor §. Laud, who assumed the character of universal bishop ||, made a metropolitani-

archbishop of Canterbury, or bishop of London: That no person shall land books coming from any place beyond sea, but in the port of the city of London. The penalty of offending against the orders of this degree was to be whipping, disabling, fine, and imprisonment, what measure of punishment the court of Star-chamber or court of High-commission should think fit to inflict. *Rusworth*, vol. III. *Appendix*, p. 306, & seq.

\* Among other tenets of the same kind which were broached at this time, Mountague maintained, that saints had a peculiar patronage, and that priests had an immediate power from God to forgive sins. One Anthony Stafford, in language highly ridiculous, and even blasphemous, extolled the invocation of the Virgin. *Prynne's Trial of Laud*, p. 215.

† Jewel's Works, Practice of Piety, and the Book of Martyrs.

‡ Letters of grace were often signed by the King's own hand. Protections were granted that the courts of justice should not proceed against certain Popish recusants. These were signified by a letter from a secretary of state to the judges of the court, that they should not be estreated into the Exchequer. One Grey, with other messengers, were by Laud and secretary Windebank, his creature, threatened to be laid by the heels if they molested Popish recusants. *Rusworth*, vol. II. p. 285. *Prynne's Trial of Laud*, p. 449, & seq. 458.

§ At the same time Puritanism was with such rigor exterminated from Oxford, friar St. Giles, a Romish priest, was maintained with a royal pension in that university. *Prynne's Trial of Laud*, p. 456.

|| The heads of the university of Oxford and others of Laud's creatures and dependants, in their addressees used to give



Anno 1636  
 Heylin's  
 Life of  
 Laud, p.  
 291, & seq.

cal visitation in all the dioceses of England. He caused all the communion-tables throughout the kingdom to be disposed according to the new plan; and framed bodies of statutes for the government of cathedrals, where bowing at the altar was by article enjoined. On the occasion of this general visitation, the two universities of Oxford and Cambridge pleaded, that they were exempt from other visitation than from the King, their founder. Laud represented this as binding up the hands of the church from enforcing a reformation\*; and the matter was referred to the King and council. Sir John Banks, the attorney-general, pleaded for the archbishop's rights; whilst the devout Charles argued the case, and gave judgment against himself: Laud, thus seconded, behaved with great insolence even to the monarch. The decision went against the university, though the earl of Holland, chancellor of Cambridge, offered to admit of Laud's visitation by commission from the King†. The

give him the pope's titles, Holiness and Most Holy Father. *Pryne's Trial of Laud*, p. 194. *Heylin's Life of Laud*, p. 316.

\* The archbishop urged, that there were three chapels in Cambridge not consecrated; that they came into the chapels without surplices; and other dangers growing, that the university would be past remedy before any complaint was made. About this time the new statutes for the university of Oxford were finished, and published in convocation: The preface disparaged king Edward VI's time and government, declaring the discipline of the university was discomposed by the King's injunctions, and that it did revive and flourish again in queen Mary's days, under cardinal Pole, when, by the much-to-be-desired felicity of those times, an inbred candor supplied the defect of statutes. *Franklyn's Annals*, p. 473. *Rushworth*, vol. II. p. 324.

† There are things said by the King during the course of this controversy which may serve to give the reader an idea of his character and opinions. On Laud's advancing; that

archbishop having thus carried his point, the two universities were supplied with images, and the first question asked at the metropolitical visitation was, "Is there due reverence paid to the altar?" On entering the chapels at Cambridge, none were permitted to approach it but in sandals, and a consecrated knife was set apart to cut the sacramental bread\*. To complete the triumphs of Laud, Juxon, his creature, whom he had caused to be made bishop of London, was, on the death of the earl of Portland, promoted to the treasurer's staff†. This brought Laud into great reputation with his brethren: It was the

that the exceptions to the archbishop's visiting the university came from the pope, "I dare say, said the King, that the pope doth as much to beat down bishops as any Puritan doth in England." Serjeant Thin, who was of counsel for the university, having said that Richard II. in a particular case, had mistaken the law, "I will not grant, Mr. Serjeant, interrupted Charles, that my predecessor did mistake the law—Perhaps he might be mis-informed of the law." *Rushworth*, vol. II. p. 324, & seq.

\* Laud, in a letter to the vice-chancellor, ordered divine service to be performed at Oxford in the Latin tongue, and that the vice-chancellor and those who officiated should be sure to wear surplices. In a postscript to this letter, Laud directs that all his letters of this nature should be registered. In the margin is written, "My letters of importance to be registered." *Laud's Hist. of his Chanceryship of Oxford*, in the Second Volume of his Remains, fol. ed. 1700.

† Laud, in his Diary, observes thus of this promotion: "Sunday, William Juxon lord-bishop of London was made lord-high-treasurer of England: No churchman had it since Henry the VII's time. I pray God bless him to carry it so, that the church may have honor, and the King and the state service and contentment by it. And now if the church will not hold up themselves, under God, I can do no more." On a previous promotion of this Juxon, Laud observes, "Dr. Juxon the dean of Worcester, at my suit, sworn clerk of his majesty's closet, that I might have one whom I might trust near his majesty, if I grow weak or infirm—as I must have a time." *Prynne's Breviate of Laud's Life*, p. 17, 20.



Anno 1636. highest encouragement to devote themselves to his measures, since they might aspire, through so powerful a recommendation, to all the great offices in the kingdom \*.

Impositions. Notwithstanding the tax of ship-money, the people were daily plagued with various kinds of impositions †; and as the opulence of the clergy

\* “The clergy are so high here, writes one of the new-mongers of the court, since the joining of the white sleeves with the white staff, that there is much talk of having a secretary a bishop, and a chancellor of the Exchequer. This comes only from the young fry of the clergy; There is not much credit given to it; but they swarm mightily about the court.” *Strafford's Letters*, vol. II. p. 2.

† A place was erected for one Lelley out of the fines for prophane cursing and swearing. A fine was imposed on every subject who departed the kingdom without licence from the King and council. The Post-office was rendered a job to one Wetherings. A new imposition of four shilling *per* chaldron was laid on all sea-coal which was transported. The King appropriated to himself the sale of gun-powder: The subject was forbid by proclamation to supply himself otherwise than out of the King's stores, at such rates as the King should please to appoint. Moreover, arbitrary prohibitions were made concerning the not paving any kind of outhouses, which otherwise would be good nurseries for the breed of salt-petre. Justices of the peace and other officers were commanded to make search in all dovehouses, cellars, vaults, outhouses, to prevent all deceit or evasion of the orders contained in the proclamation; that no stables, other than the stables of the lords spiritual and temporal, and of gentlemen of quality, be pitched, paved, or graveled, where the horses feet are to stand.

One Hilyard was fined five thousand pounds for selling salt-petre, against proclamation. Penalties were inflicted on heavy carriages which travelled the high-ways. The subject was again called upon to confirm by money their respective titles and estates. All proprietors were obliged to produce their titles, to which the commissioners were sure to make objections: This made many people, to avoid a law suit with the King, compound with the commissioners, and give a sum of money to secure the lands without farther trouble.

A patent

was to increase with that of the crown, an attempt was made to enhance the value of tythes within the city of London, by subjecting a question in dispute between the clergy and the citizens to the arbitration of the King and council.

Anno 1636.  
Rushworth,  
vol. II. p.  
269, & seq.

C H A P. IV.

*Trial concerning Ship-money — Arundel's fruitful negotiation in Germany. — Pacific measures of the ministry. — Prosecution of Williams bishop of Lincoln. — Prosecution of Prynne, Burton, Bastwick, and others. — Resolution of many to quit their native country.*

**W**HILST the nation impotently groaned under the deepest wound the English constitution ever had received; whilst the two estates

Anno 1637

A patent was granted for the sole making strong waters through England and Wales; and many other monopolies established, to the great detriment and vexation of the subject.

An office was erected for the sole making iron, and a surveyor appointed of all iron-works, furnaces, and forges, within England and Wales, by letters-patent. The officers were appointed to have fees at the time of surveying and marking; and all persons were required to permit the said officers or their deputies to enter into their warehouses, iron-works, &c. The King declared, that his officers or their deputies might enter into any woods or wood-grounds, where any woods were or should be felled to be converted into coals for the making iron or iron-metal.

An office was erected for licensing subjects to travel in foreign parts.

An office was erected for the surveying and sealing of a reel appointed to be used by the manufacturers in cloth and yarn. This erecting new offices with fees was illegal: An office of of worsted, in Edward III's time, was adjudged void and repealed; and an office of measurage, granted by Henry IV. was complained of in parliament, as against the statute *De Tallagio non concedendo*. *Rymer*, vol. XIX. p. 601, & seq. *Rushworth*, vol. III. *Appendix*, p. 68, & seq. *Rapin*, vol. X. p. 294. *Strafford's Letters*, vol. I. p. 446.



Anno 1637. of Lords and Commons were precluded all hopes of ever re-assuming their rights, privileges, and authorities; whilst law itself, conveyed through the polluted channel of corrupt gown-men, was rendered the instrument of despotism; one man, the same who had before suffered imprisonment rather than consent to an illegal loan, again stood forth, and combated this new state-monster, ship-money.

Rushworth,  
vol. I. p.  
428.

Trial concerning  
ship-money.

John Hamden, of an ancient family and considerable fortune, had been rated at twenty shillings for an estate which he held in the county of Buckingham: And notwithstanding the powers of the constitution seemed to be entirely subdued by the rapacious encroachments of monarchy; notwithstanding there was no prospect of relief from parliament; notwithstanding the ministers of Charles were armed with power, and held in one hand the sword, in the other the yoke, over the neck of their helpless country; this illustrious individual, by an appeal to the laws of the realm, resolutely stood the resentment of a tyrant, rather than tamely submit to the illegal imposition. Mr. St. John and Mr. Holbourne, two lawyers of great eminence, were of his counsel. After many pleadings and traverses, the cause was heard before all the judges in the Exchequer-chamber. Twelve days were expended in the pleadings of the lawyers, and the case was afterwards argued by the judges. Precedents of writs as ancient as the Saxon times were produced: These writs, when examined, were found only to require the sea-ports, sometimes at their own charge, sometimes at the charge of the counties, to send their ships for the defence of the nation. But this power which the crown had exercised, to issue such writs, was entirely abolished by the statute

*De*

*De Tallagio non concedendo*; all the authority which Anno 1637. remained was to press ships into the public service to be paid by the crown. Yet notwithstanding this, and that Mr. Hamden's counsel unanswerably proved the illegality of the tax, from the fundamental principles of the constitution, and the positive dictates of the Great Charter, and other constitutional acts, and to the Petition of Right, which had lately been so solemnly enacted by the concurrence of the whole legislature, the prostituted bench of judges, four individuals excepted, gave sentence in favor of the crown. The judges Weston, Crawley, Berkeley, Vernon, Trevor, Finch, and Bramston, for the King; Crook, Hutton, Denham, and Davenport, for Mr. Hamden.

The great Littleton, who had made so noble a figure in all proceedings against the usurpations of the crown, and in pleading the cause of the imprisoned members; had cried out, "The Petition of Right, the Petition of Right;" was now sunk into a solicitor-general, and argued on the side of tyranny with all the petulance, arrogance, prevarication, and fallacy, of a true crown-lawyer; who, safe under the royal banners, clamors nonsense and falsehoods at the bar with unlimited impunity. The point in dispute was so impotently contested by the pleaders on the side of prerogative, that nothing could equal the iniquity of their intentions but the weakness of their arguments. On the other side, Mr. St. John supported his with a great weight of authorities, and shewed a depth of learning, and strength of reason, equal to the importance of the occasion. Mr. Holbourne was manly and rhetorical: He exposed the iniquity of the tax, upon the principles



Anno 1637. ples of history, law, and civil policy\*: But when at the greatest distance he pointed towards matters of government, he was checked and interrupted from the bench by that consummate tool Finch, who in open court reproached Crook and Hutton with having receded from their opinions given in private†. In the speeches which Hutton and Crook made, they excused the seeming difference in their judgments, affirming, that the former opinion, which had been subscribed with their hands, was extorted from them by their brethren, more ancient than themselves: They had assured them, that it was not fit in cases of a nature so much concerning the King, for some to subscribe, and others to forbear their subscription; and although they did subscribe, it did not so bind, but that if the case came in question judicially before them, they might give their judgments as they should see cause, after hearing the arguments on both sides. Judge Hutton farther said, that if he was now of the same opinion he had before subscribed to, yet this writ did not pursue that direction; for it was then agreed, that the King might charge in case of a general danger; not a danger of pirates, but on imminent necessity and apparent danger, which could not otherwise be avoided.

In the course of the pleadings it had been con-

\* This work having been already enriched with a number of notes necessary to illustrate or enforce the matter in the text—that the page might not be disfigured with a very long one relating to this important trial, the author has thought proper to add it by way of Appendix, which the reader is earnestly desired to peruse.

† Denham being absent on account of sickness, Finch repaired to his chamber, to urge him to retract his opinion; and on his refusal, used some threatening expressions. *Commons Charge against Finch, Rushworth*, vol. IV. p. 187.

fessed,

feſſed, that public and private danger might be ſo imminent as to occaſion a neceſſary ceſſation of property, whiſt the parties were providing for their ſafety: But how abſurd was the plea of neceſſity in the preſent caſe? Urgent danger muſt be obvious to the public eye, and men will then readily ſubmit to an irregular authority, when exerted for their preſervation. What is there common between ſuch ſuppoſitions and the preſent condition of the nation, ſaid the popular lawyers? England enjoys a profound peace, and the enmity ſubſiſting between her neighbors ſecures her tranquillity. The writs which are iſſued for the levying ſhip-money pretend only that the ſeas are infeſted with pirates, and allow ſeveral months for equipping the ſhips: This muſt be a ſpecies of neceſſity which would admit of delay beyond the time requiſite for ſummoning a parliament. It was farther remarked, that the pretended neceſſity had continued, without interruption, for three years; and during ſo long a time had remained inviſible to the whole nation.

This trial, which had been permitted in order to obtain a judicial record in favor of deſpotiſm, helped to rouse the public from that effeminate paſſivenefs which riches and luxury had occaſioned. A long peace, and national induſtry, had greatly enlarged the commerce, and encreaſed the opulence, of the people of England. Theſe advantages, due alone to their diligence and virtue, they now, by a logic which included all the property in the kingdom, ſaw themſelves irrecoverably deprived of. The more the late tranſactions were canvafſed, the more evidently did it appear, that the old conſtitution was totally ſubverted, and tyranny eſtabliſhed in its ſtead; the utmoſt violence exerciſed againſt mens per-



Anno 1637. sons and property, under the pretence of law and reason: If any thing could add to the indignity the public received, it must be such a mockery of their understanding. The judgment in the case of ship-money bound all men to a forced acquiescence; for the question, whether the King could impose taxes without consent of parliament, was never afterwards suffered to be debated: The lord Say endeavored to procure a new trial on the same point, but was refused. Justice Acherley's *Brit. Con-stitutions*, p. 373. Crawley, at an assize in the Western circuit, asserted, in the face of the country, that the power of imposing was so inherent in the crown, that no parliament could take it away. Justice Berkeley, at the York-assizes, in the same public manner, declared, that the judges were in some cases above parliaments.

Strafford's  
Letters, vol.  
II. p. 167,  
177.  
State Trials,  
vol. I. p.  
699, & seq.

The zeal which these corrupt lawyers shewed in the cause of slavery could not be equalled but by the frenzy of the clergy. One Harrison, a well-beneficed divine, and chaplain-extraordinary to bishop Juxon the treasurer, took notes of judge Hutton's speech in the case of ship-money; and four days after pressed up to the bar of the Common-Pleas, crying, he came to discover high-treason. On being told, that the King's Bench court was more proper for that accusation, he said, "No; the party sat in that court, and there he would charge him: It was judge Hutton." The croud about the bar said he was mad. "No," replied his curate; he will make good his accusation." On being taken into custody and examined, he justified his behavior, and said, that Mr. Justice Hutton, in his argument, had denied that supremacy and supreme power which, by the orthodox opinion of all divines, was inherent in the King, whereby he had power to assess what

sum soever he in his conscience, between God Anno 1637. and him, thought fit, for the good of the common-wealth, notwithstanding any statutes, laws, or customs, to the contrary; that all the statutes were but favors from the Kings of this realm, which they might break at their pleasure. The ministry were so ashamed of this flight of Harrison, that they gave directions to proceed against him in the King's Bench, where, for the misdemeanor of insulting a judge in his office, he was fined five thousand pounds, and to make an acknowledgment of his offence.

Relative to this important trial and judgment in the case of ship-money, I must remark an anecdote which does honor to the female sex. Judge Crook, fearful of exposing himself to the resentment of a wicked and powerful ministry, Whitlock, p. 24. had determined to give judgment for the King; but his wife, a woman of true virtue, addressed him in a style of Spartan magnanimity; conjured him not to err against his conscience and his honor for fear of incurring danger or poverty: for herself, she would be content to suffer want or any misery, rather than be the occasion of his acting against his judgment and his conscience. Crook, struck with the exalted sentiments, and strengthened with the farther encouragements, of so dear and persuasive a friend, altered his purpose, and not only gave his opinion against the King, but argued with a noble boldness and firmness on the side of Law and Liberty. That there is an example of this kind in the history of my country, gives me infinite pleasure; that there are few, I feel with a sensible regret. Were the principles of the generality of the sex as just and as well founded as were those of this respectable woman, it would have a very happy effect on the conduct



Anno 1637. conduct of society : We should not have to lament so many melancholy instances of human weakness, nor, particularly in this country, such a continued succession of patriots falling from the highest pinnacle of reputation into the pit of shame and infamy, and sacrificing the essential superiorities of virtue and honor to the fancied distinctions of a peerage and a ribbon !

\* Northumberland.  
Strafford's  
Letters.  
vol. II. p. 84,  
117.

Ship-money continued to be exacted with the utmost rigor ; and, to keep up appearances, a fleet for some time paraded on the seas : but, according to the opinion of the lord-admiral \*, it was of so little service, that the King might have saved his charges, and kept it at home. Indeed, the ministry seemed to consider its uses only as a color to their pretences ; for at this very time the Dutch re-assumed their claim, and refused to purchase licences for fishing. The neutrality of the English ports was not only violated by Spain, Holland, and France, but the English merchantmen were frequently taken by the ships of these several powers ; the passage-boats carrying the King's packets were spoiled and arrested by the French. The earl of Leicester, ambassador to that King, writes to secretary Cook, " That the seas were dangerous by reason of the Dunkirkers ; that the French committed frequent and insufferable insolencies upon the English ; that the King's purveyor having made provision of foreign wine, part was taken by the Biscayners, and carried into Spain, and the other part stayed in France." Sir Philip Carteret, governor of Jersey, complained, that there was a general arrest of all English ships and goods. At this juncture, three English East-India ships were taken by the Hollanders, the Bona-Esperanza, the Dragon, and Katherine, valued at three hundred and fifty thou-

Sydney's  
State Papers,  
vol. II. p.  
375, 435,  
531, 533.  
Oldmixon,  
p. 128.

thousand pounds. The Algerine pirates continued to infest even the British Channel, and made such captures that they were at one time in possession of between four and five thousand subjects of the crown of England. Sallee, a town situated in the province of Fez, on the coast of Barbary, the great rendezvous of these sea-robbers, revolting from the government of the emperor of Morocco, that prince sent an ambassador to Charles to desire him to attack the town by sea, whilst he assaulted it by land. Captain Rainsborough, an experienced sea-officer, was this year sent with four ships and two pinaces, with instructions to block up the port of Sallee. It was at the same time attacked by a very powerful land-force, and soon reduced; the fortifications were demolished, and the leaders of the rebellion put to death. It does not appear, that the reduction of Sallee was of any very material service to the English subjects, for the Turks continued their depredations many years after this event.

Anno 1637.  
Depredations committed by the Turks.

Sallee destroyed.

The peace of Prague had discontented all parties, but particularly the Swedes, who, abetted by the French and Dutch, invaded the elector of Saxony's dominions. This contention among almost all the great powers in Europe rendered Charles of some consequence: he had been courted in turns by the three states in confederacy against the house of Austria—Holland, France, and Sweden. Of the increasing power of the French and Dutch he had conceived a jealousy, and was so cold towards entering into any alliance with the Swedes, that the chancellor Oxenstiern's son, who had been sent by his father into England to prosecute the project of the negotiation which had been broken off by Vane, was so lit-



Anno 1637. He regarded, and treated in so slighting a manner, that he left the kingdom in great discontent, not even accepting the presents which were made him in the character of ambassador. Charles neglected all the offers of assistance which these powers tendered him towards the restitution of the Palatinate family, and chose still to depend on the house of Austria, who, at this crisis, he imagined would be glad to purchase his friendship. At the accession of the new emperor, the earl of Arundel was sent into Germany, to negotiate the restoration of the elector's patrimony. The ambassador received an answer so little satisfactory to the desires of the court of England, that he returned home in great disgust, without taking leave \*. Charles, inflamed by the account which the earl of Arundel gave of his fruitless embassy, began to listen to propositions which were made him by the French king, whose country was at this time invaded by the arch-duke. For the assistance of the English fleet, and some levies of men, Charles was to have a share in all the conquests gained from the Austrian family, and no peace to be concluded before the prince elector was restored to his possessions and dignities †.

Arundel's  
fruitless ne-  
gociation.  
Rushworth,  
vol. II. p.  
364, & seq.

There were at this time two factions in the court; one of them favored the house of Au-

\* The duke of Bavaria plainly told him, that what he had gained by the sword he would keep by the sword. *Rushworth*, vol. II. p. 365.

† There was at this time an effort made to get money from the Puritans, under pretence that the prince-electors, who was yet in England, was desirous of being in action, and would attempt an expedition against Spain. This did not take: the people of England were too much exasperated with forced impositions to come into the scheme of a voluntary contribution. *Strafford's Letters*, vol. II. p. 49.

stria\*, and the other inclined to the French and Dutch. The first had drank deep of the intoxicating cup of tyranny, and had planned all the measures which had been pursued to subvert the constitution: They found their safety depended on preserving a profound peace, and used all their influence to prevent their master from engaging himself in the quarrel on the continent, or entering too far into the interest of his sister and his nephews. The other faction had kept well with the court, for the sake of places and preferments; but at the same time impatiently expected an occasion which would drive Charles and his cabal into the necessity of summoning a parliament: This event, they hoped, would prove a means of freeing their enslaved country, and confounding the hitherto successful schemes of her enemies. They continually represented to the King the deplorable situation of the queen of Bohemia, and that now was the favorable crisis to recover by honorable means the Palatinate, and revenge the indignities the Stewart family had received from the house of Austria†.

Pacific measures of the ministry.

\* Northumberland, who was of the council, wrote word to Leicester, Charles's ambassador in France, that Laud, Hamilton, and Wentworth, who were the people who absolutely governed, were as much Spanish as Olivares; that there was not any body about the King more Spanish than Wentworth. Moreri accuses him of being a pensioner to Spain. Sir Thomas Roe wrote out of Germany, that he had good intelligence there, that secretary Windebank betrayed the counsels of the English court to the Spaniards and Imperialists, and that he was their pensioner. *Sydney's State Papers*, vol. II. p. 617, 621.

† Wentworth perfectly understood the aims of this faction, and expressed his fears to Laud. "Good my lord, writes he, if it be not too late, use your best to deliver us from this war; it will necessarily put the King upon all the high ways possible; and if these fail, the next will but be the sacrificing those who have been his ministers therein. I profess I will lay



Anno 1637.

Strafford's  
Letters, vol.  
II. p. 53,  
59, & seq.

The present appearance of a war struck the cabal of ministers and all their adherents with consternation : a parliament, that object of terror to wicked statesmen, represented itself to their imagination, armed with all the powers of the injured constitution ; and their guilt made them sensible that they had nothing to hope from the severe but equitable justice of that assembly. The alarm ran through the whole ministerial faction : Though Charles assured Wentworth that his warfare should be by sea, not by land, that he was determined not to meddle with land-forces, and that by this management he should keep free from the necessity of calling a parliament, yet this did not calm the apprehensions of this self-convicted criminal : He represented in a very pressing manner, “ the danger the King ran of entering into foreign engagements till the crown was discharged of debts, the royal coffers filled, and the sovereignty set upon its right foot throughout the three kingdoms ; but that this foundation laid, nothing could shake the monarchy, or stay the career of his majesty’s triumphs. It was to be considered how far his majesty was obliged to interrupt the prosperity of his own affairs, for the restitution of the prince-electors his nephew ; how far answerable in piety towards his sister and his nephews, having so royal and plentiful an issue of his own to be provided for according to their greatness, and that in the first

lay down my life to serve my master ; but it would something trouble me to find even those who drew and engaged him in all these mischiefs busy about me themselves in fitting the halter about my neck, and in tying the knot sure that it should not slip ; as if they were the persons in the world the most innocent of guilt, howbeit in truth as black as hell itself, and on whom the punishment ought to lie.” *Strafford’s Letters*, vol. II. p. 66.

place,

place, whereas by this means they seemed postponed; it was to be considered, whether ship-money would be brought in so readily this year as it was the last, or whether his majesty's being engaged in a war might embolden the ill-affected to grow more backward in their payments, finding him not at so entire leisure to discipline their untowardness as in time of peace. Should the fleet going out fall into any misfortune, what likelihood that the subject would, without hesitation, make up the breach by a second levy? that failing, what other means had the crown to enforce it but by parliament? and what wisdom did advise the summoning one in a time so conditioned? Were it not more opportune to endeavor the restitution by treaty, to satisfy the duke of Bavaria and other pretenders with two or three hundred thousand pounds among them, rather than enter into a war accompanied with uncertainties, inconveniencies, and dangers? It might be asked, where was so great a sum to be had?—Of the subjects of England; and thus insensibly gain a precedent, and settle a right in the crown to levies of such a nature, which drew after it many advantages, more proper to be thought of at some other season than the present.” To these considerations Wentworth added, that the consequences of a war would be the decrease of the customs of Ireland\*; it would prove an obstacle in the settling plantations, and that all the propositions given to his majesty for the advancement of his revenue would be at a stand.

\* By the means of many oppressive impositions, the receipt of the customs in Ireland was raised two thousand pounds per year. Wentworth had a great share in these farms, and was accused of putting more money in his own pocket by these improvements than he did in his master's.



Anno 1637.

Sydney's  
State Pa-  
pers, fol. ed.  
1746. vol.  
II. p. 394.  
& seq. 446,  
451.

Arguments of this nature could not fail of having their due weight. The entering into a league with the fore-mentioned confederate powers was entirely laid aside, and Charles assured his ministers, that nothing should incite him to meddle with war. He refused to enter into an offensive and defensive treaty with France, and slighted every proposition of alliance with that court. Lewis resented this behavior, and told the earl of Leicester, the English ambassador, that his master's embracing or rejecting the amity proffered depended on the resolutions of the court of Vienna, and that he had made use of a pretended treaty with France to render the emperor more compliant to his demands. Lewis farther complained, that the King of England openly assisted the enemies of France, the Spaniards, and earnestly advised Charles to break off all correspondence with the emperor, for he was assured that the house of Austria would never give him any kind of satisfaction.

From the circumstances which have been mentioned, it is easy to gather what were the true reasons for Charles's obstinate neutrality during the contest between the houses of Austria and Bourbon, when almost all the other states in Europe were engaged on the one side or the other. On this occasion, most writers have complimented him with a sagacity and disinterestedness, which make no part of his character; they have given him the merit of understanding the true interest of Europe, of foreseeing the formidable greatness of the Bourbon family, and acting by this knowledge on the steady principles of just policy. To such suppositions it may be objected, that Charles's government was of a nature which obliged him to keep out of every war but that  
which

which he was making on the English constitution; that the balance of power was at this time apparently in the house of Austria, a family who had in a manner destroyed both the civil and religious liberties of Germany; that had the king of England, by an upright government, united his subjects' interest with his own, he would have been assisted in a manner which would have rendered him one of the most considerable principals in the war. The house of Austria might have been despoiled of some of that power it had shamefully abused; and the Palatinate family, not the French, come in for a great part of the plunder: whereas, by permitting Lewis to become the head of the Protestant confederacy, one of these two inconveniencies were likely to follow; either the house of Austria get the better, and thus become more formidable by the contention; or be worsted, and the house of Bourbon acquire a great acquisition of power.

Williams bishop of Lincoln, notwithstanding many servile efforts to recover power and influence, continued still the object of disgrace: the implacable Laud, who had conceived an insuperable jealousy of his abilities, persecuted him with repeated injuries. Buckingham's enmity and suspicions have been related, on the dissolution of the assembly at Oxford. Williams attempted to ward off the expected blow, by putting into the King's hand the history of his conduct: That he had never spoken with any of the stirring members but with Philips, and with Wentworth for the service of the duke; that he did cross the popular way more than any of the council, in advising his majesty to reserve to himself the execution of laws against recusants, in postponing the bill against them, and in staying the

Hacket's  
Life of Wil-  
liams, fol.  
ed. Id. oct.  
ed. Rush-  
worth.  
Fuller's  
Church Hist.



Anno 1637. the bill of tonnage and poundage, which was promoted by lord Say \*; that he had offered his service to his majesty, for the executing any directions which should be given to him in private; that he had waited on his majesty and the duke seven times for such commands, and had received none; that as the duke was endeavoring to ruin him in parliament, he could not stickle at that time without employment from his majesty.

Charles was so satisfied with Williams's justifying himself from having any honest intentions, that he received him graciously; but Buckingham and Laud were too earnestly intent on his ruin to suffer him to save his plumage: he was deprived of the seals, under pretence that they were given him by James but for the term of three years, and were designed by that King to be kept triennially. Williams pleaded, that he had been by his late master permitted to keep his office above that term, and that Charles had continued him in it without any condition or limitation of time; he desired leave to speak with the King, which was granted him, on condition that he would not press his majesty to yield reasons for removing him from the seals and from the council-board. In this interview he made several petitions, which the King, who wanted to get rid of him, promised to grant, but fell short in the performance; and the bishop was farther mortified with orders to confine himself to his episcopal see, not to appear at the coronation, nor to attend the next parliament. In the third parliament of this reign he was called up by an express direction from the house of Lords, and

\* This was a bill of tonnage and poundage for a limited time, sent up by the Commons, and rejected by the Peers.

displayed such a zeal for the court in the business of the Petition of Right, on the censure of the commission to raise money, and in urging the passing a bill of tonnage and poundage, that he obtained a private audience with the King and duke. On some advice which he gave how to allay the animosity of the Commons, it was determined that a degree of indulgence should be shewed to the Puritans. This inflamed Laud's malice to such a height, that Williams was persecuted without ceasing by the tools of this prelate, and at length a Star-chamber bill was drawn up against him, on pretence that he had betrayed the King's counsel, in telling to Sir John Lamb, Drs. Sibthorp, Burden, and Allen, four of Laud's creatures, and officers in the ecclesiastical courts\*, that it was the royal pleasure the Puritans should be treated with some condescension †.

A commission was set on foot to enquire if he took any bribe whilst he kept the great seal. The prebendaries of the church of Westminster were prevailed on to prefer articles of mis-government against him ‡. A kind of bargain was carrying

\* Sir John Lamb was dean of the arches. He owed his fortune to Williams, and had by his interest escaped parliamentary censure. *Fuller's Church Hist.* B. XI. p. 155.

† The bishop put in an answer, that this was a conspiracy and combination of the persons named in the bill; viz. Sir John Lamb, &c. from an intent to advance themselves, and hatred they bore to him for not permitting them to get money out of the King's subjects in Leicestershire, by hauling them into their nets, *ex officio mero*, under an imaginary colour of Puritanism. All which made for the defendant in this answer was expunged by the court, on pretence that none must impeach the credit of the King's witnesses, who deposing *pro domino rege* must be reputed holy and sacred in what they aver. *Fuller's Church Hist.* B. XI. p. 156, & seq.

‡ A very unequal tax was laid upon him in the levy of ship-money. When he requested Cottington to inform him what he should do to obtain his peace, Cottington answered,



Anno 1637. on, that Williams should part with four thousand pounds, his deanry, and two commendams, or pay eight thousand pounds to the King's use. Laud, unwilling that he should come off at so easy a rate, brought another false and frivolous charge into the Star-chamber against him, for tampering with the King's witnesses, and suborning people to support, by perjury, the credit of a man who was present when the conversation passed between him, Lamb, and Sibthorp, and was to give testimony in his favor. This ridiculous accusation was in the case of a bastard-child; an offence which could not possibly affect the judicial testimony of the offender. Though it was apparent that the prosecution was a malicious conspiracy against the liberty and property of the bishop; though it was managed by tools notoriously profligate; yet it employed the members of the Star-chamber nine days: and at last sentence was given, That Williams should pay ten thousand pounds to the King; suffer imprisonment during pleasure; be suspended from his ecclesiastical function \*; delivered over to the High-

that his majesty did not like he should be so near a neighbor to Whitehall - he would be better contented if he would part with his deanry; that the lustre in which he lived, the great company which resorted to him, and his profuse hospitality, were objected; it being not the King's meaning, that one whom he had plucked down should live so high. On condition of his obtaining peace, the following hard terms having been offered to Williams; *viz.* that he should resign the bishopric of Lincoln, and deanry of Westminster, and take a bishopric in Ireland, he absolutely refused them, saying, he had much ado to defend himself against Laud here; but if he was in Ireland, the earl of Strafford would cut off his head within one month. *Hacker's Life of Williams*, oct. ed. p. 184, & *seq.* *Clarendon's Hist.* vol. I. p. 274, & *seq.*

\* During Williams's suspension, Laud exercised every kind of ecclesiastical jurisdiction in the diocese of Lincoln. He sent a warrant to the prebendaries of the collegiate church of West-

commission court; and moreover to pay one thousand marks to one Sir John Munson, whom he had accused of mal-practices against him \*. Laud made a long pedantic speech on the occasion: he labored to persuade the court, that he had endeavored on his knees, five several times, to serve the bishop with the King; but that his obstinacy in not owning his offence had defeated

Westminster, to act and pass all orders during the suspension of their dean. These were to go in the dean's name. This commission was deemed by the lawyers irregular and illegal. *Baker's Chronicle*, p. 457. *Whitlock*, p. 25.

\* The plague having broke out in London, and all processes at law suspended, by a proclamation, till Hilary-term, the bishop claimed the privilege that his cause might be deferred till then. The lord-keeper Coventry told him, that the proclamation was clear on his side, but he had special directions that he should have no benefit of it.

Before the members of the Star-chamber sat in judgment on this cause, they debated in another room concerning the punishment they should inflict on Williams; and it was with some difficulty that the more moderate members, who feared the bustle such a business would make, prevented his being degraded, with a view of inflicting on him corporal punishments, whipping, branding, cropping ears, and the pillory. Finch and Windebank, two of Laud's most devoted tools, declared that if others would have concurred, they would have laid some ignominy on Williams's person. Laud's malice got the better of his zeal for the dignity of bishops: he not only endeavored to inflict on Williams this base punishment, but justified his instrument, Kilvert, in publicly affronting him in the grossest manner. Finch, to whom Lincoln had formerly been very friendly, altered a certificate which he and some of his fellow-judges had signed in his behalf: on being questioned for this, he answered, that he had been soundly chidden by his majesty, and would not destroy himself for any man's sake. In this trial Finch declared, and the lord-keeper Coventry joined with him in opinion, that it was not necessary in that court to have a truth proved by two or three witnesses: "For my part, said Finch, *singularis testis* shall many times move and induce me verily to believe an act done, when more proofs are shunned." *Hacket's Life of Williams*, oct. ed. p. 189, & seq. fol. ed. part II. p. 125. *Rushworth*, vol. II. p. 416, & seq.



Anno 1637. all applications in his favor \*. He told a tedious impertinent story from St. Austin concerning St. Cecilia's trial; inveighed bitterly against the sin of perjury; ran through the whole detail of its progression; shewed that the Holy Ghost had made no mention of such a crime for the first three thousand years of the world; that the Holy Ghost had refused to name Jezebel's false witnesses, otherwise than under the character of men of Belial; related the determination of councils concerning the crime; insinuated that the sentence was a very merciful one—for the wisest nations, on the like occasions, had inflicted death; therefore, though he much compassionated the bishop's fate, yet, considering his guilt was so great, he did agree with the heaviest censure.

Echard,  
p. 462.

Kilvert, a profligate man, and an especial instrument of Laud, was appointed to levy the fine. In the execution of this commission he did all possible mischief to the property of the unfortunate prisoner: he felled his timber, killed his deer, sold his goods for a twentieth part of what they cost. The bishop's benefices, lands, and leases were offered to be rented at four thousand five hundred pounds *per* year, with sufficient security to pay the King. Kilvert brought a letter from secretary Windebank, to direct the jury to receive no evidence against the King's profit, but to find the particulars at half the rate, or less: the jury obeyed the direction, and Kilvert and

\* The following passage, in an account of this business written to Wentworth by one of the court-parasites, shews fully the style of thinking and talking of these contemptible beings. "The bishop's pride and obstinacy in not submitting to the King in due time has undone him; nay, since his censure they say he pleads to all his friends his innocency, or else he is horribly belied." *Strafford's Letters*, vol. II. p. 87.

his gang lived upon the estate, and collected the rents at their pleasure. Under all these mortifications, Lincoln not submitting to certain propositions, Laud raised another prosecution against him, for licensing a book called "The Holy-Table Name and Thing," of which he was the supposed author. Whilst in prison, a third information was lodged against him in the Star-chamber, on the shameful pretence of having concealed a letter written by one Osbaldistone, a school-master, in which mention was made of "a little great man, a little urchin." This letter had been seized among Lincoln's furniture and books; and, by inferences and constructions, the epithets in it were applied to Laud. Williams was tried for entering into a conspiracy with Osbaldistone, to contrive and divulge scandalous libels against the archbishop and the state. Notwithstanding it was pleaded, that the evidences which appeared against him were his own servants; that they had been lately censured for tampering with witnesses, and were persons expecting the mercy of the court\*; and moreover, that the witness Walker, Lincoln's secretary, had commission to open his letters in his absence, and if those letters were found at his house they were laid up and concealed by the said Walker†; yet

\* They had been all censured; but their fines were commuted into offices of serving as witnesses against Williams. *Eckard*, p. 462.

† The substance of the bishop's defence was denying the fact. Banks the attorney-general observed, that from this circumstance he was guilty of perjury, and that perjury was punishable in that court, though not charged in the information. In the course of this trial, this servile and iniquitous doctrine was highly asserted, that if a libel was concealed concerning a private person, it was no offence; but if it concerned a public officer, the concealer to be punished as a libeller. After Lincoln was suspended by the High-com-



ANNO 1637. he was sentenced to pay five thousand pounds to the King, and three thousand to the prelate. Osbaldistone to pay five thousand pounds to the King, and five thousand to the archbishop, and to stand with his ears nailed to the pillory in Dean's-Yard, before his own school\*. In the speeches which each member made in passing this scandalous sentence, they took an occasion to run out in encomiums upon Laud. The earl of Dorset reviled Osbaldistone, who was a man of great eminence in his profession, in the same low style as he had before used to Prynne. Justice Brampton said, that he should not stand upon the validity of the witnesses, for he was convinced that Lincoln was guilty. And the lord-keeper observed, that Lincoln had been thrice examined upon the letter, which was a shrewed argument to him that he knew there was scandalous matter contained in it†.

These unjust prosecutions carried on against this bishop, notorious in their nature, were particularly the object of public attention and resent-

ment, he was twice examined in the Tower by two bishops and three doctors, on articles which took up twenty-four sheets of paper written on both sides. They were all of them of the following sort: Whether all books licensed by his grace of Canterbury's chaplain, as Manwaring's Sermons, &c. were not to be presumed by all true subjects to be orthodox, and agreeable to sound religion; concerning bishop Williams having said, that all flesh in England had corrupted their ways; that he had called a book entitled "A Coal from the Altar," a pamphlet, &c. Though Lincoln gave very wary answers to every one of the articles, yet on these examinations he was represented to the King as much disaffected to the present government. *Rushworth*, vol. II. p. 803, & seq. *Fuller's Church Hist.* book XI. p. 159.

\* He saved his ears by absconding, and keeping himself concealed.

† Finch and Windebank voted, that the bishop's fine should be ten thousand pounds. *Rushworth*, vol. II. p. 811.

ment, from that quick sensibility which was at this time among the people, proceeding from the government having irritated them without ceasing, not only by tyrannical acts, subversive of the constitution, but by barbarous violations of all laws, human and divine. It was for this reason that Lincoln met with great pity from the populace, who thronged every day to the court of Star-chamber to attend his trial.

Immediately before this bishop was brought on the stage, their attention had been riveted on an object of a yet more interesting nature. Burton a divine, Bastwick a physician, and Prynne, the same lawyer who had already been so cruelly handled in the Star-chamber, provoked anew the furious Laud, by several publications against the *jus divinum* of bishops. These books, though they contained disagreeable truths, yet they were written in so fanatic and diffusive a style, that nothing but the extreme scarcity of performances on this side of the question, occasioned by the restraint on the press, with the aversion the public had to the present pretensions of the church, could have procured them a tolerable reception. Dr. Bastwick, for publishing a work entitled, *Flagellum Pontificis & Episcoporum Latialium*, had his house ransacked by a pursuivant, all his books and papers carried off, himself accused in the High-commission court, there fined one thousand pounds, excommunicated, debarred from the practice of physic, his books ordered to be burnt, and his body imprisoned till he should make recantation. Whilst under confinement, he wrote another book, taxing the proceedings of the High-commission court. Mr. Burton had not only published several books offensive to the hierarchy, but had preached a sermon on the

Prosecution  
of Burton,  
Bastwick,  
and Prynne.

Prynne  
against Pre-  
lates.  
Fuller's  
Church Hist.  
Rushworth.

fifth



Anno 1637. fifth of November, in which he pointed out many innovations in the forms of the English worship\*. Prynne, though in prison, had again employed his pen on the same subject. These men Laud brought into the Star-chamber†. The delinquents, finding the terrors of the court had made their counsel shy, petitioned that they might sign their answers themselves‡. This request being denied, they with great spirit put in a cross-bill against the prelates, charging them with usurping upon the prerogative-royal with innovations; and set forth the substance of their answers§. The

\* The following are some of the innovations with which he taxed the prelates, in a book entitled, "News from Ipswich:" That divine service on the fast-days was enjoined to be without sermons; that Wednesdays were appointed for fast-days, on purpose to suppress the lectures which were read on those days; the changing the word "*in*" for "*at* the name of Jesus every knee shall bow." *State Trials*, vol. I. p. 466, & seq.

† A large number of Burton's parishioners having sent a petition to the King to entreat for his pardon and liberty, the two people who carried it were committed to prison. *Strafford's Letters*, vol. II. p. 57.

‡ Prynne pleaded, that it was impossible for him to put in an answer at the time appointed by the court: for that in order to disable him in the prosecution of his cause, his friends were restrained from him; he was prohibited access to his counsel; debarred the use of pen, ink, and paper; and moreover, his servant, who should solicit his business, and help to copy and engross his answer, was by Laud's direction detained a close prisoner in a messenger's hands. On the receipt of this petition, counsel was ordered to repair to Mr. Prynne; but when his answer was drawn up, it yet remained unsigned, for that his counsel Holt was forbid to put his name to it. Moreover, Gardiner, a clerk belonging to the Tower, for writing the petition, was by a warrant from the archbishop apprehended by a pursuivant, and kept a prisoner fourteen days. *Prynne against Prelates*, 4to ed. 1641, p. 29, & seq.

§ On this unexpected exertion, Laud obtained the following certificate from the justices of the court of King's Bench, Common Pleas, and the barons of the Exchequer: "That process may issue out of the ecclesiastical courts in the name of

court of Star-chamber refused to receive the cross-bill against the bishops\*. Mr. Burton got one Holt a lawyer to draw and sign his answer. Finch told Holt, that he deserved to have his gown pulled over his ears for drawing it†. All the answer was expunged, excepting the plea of Not Guilty. Burton refusing to be examined,

of the bishops; that a patent under the great seal is not necessary for the keeping the said courts, or the enabling of citations, suspensions, excommunications, or other censures of the church; and that it is not necessary that processes ecclesiastical in the said court, or corrections of ecclesiastical offences, be in the King's name, or with the style of the King, or under the King's seal, or that their seals of office have on them the King's arms; and that the statute of the first of Edward VI. cap. 2. which enacted the contrary, is not now in force. We are also of opinion, that the bishops, archdeacons, and other ecclesiastical persons, may keep their visitations as usually they have done, without commission under the great seal of England so to do." This certificate was by the King's directions enrolled in the courts of Exchequer, King's Bench, and Common Pleas, and registered in the courts of High-commission and Star-chamber. Moreover, a proclamation was issued to stop the mouths of all unquiet persons, that they should not for the future presume to censure his majesty's ecclesiastical courts in their just and warranted proceedings. — Charles, who was so tenacious of power, thus disclaiming a prerogative allowed him by the major part of his subjects, is a very remarkable instance of the potent influence these prelates, by flattery and cant, had gained over his vain and superstitious mind. *Rymer's Fœdera*, vol. XX. p. 144. 156. 168.

\* It was committed to the judges to give their opinions, whether the three complainants might not be tried in the King's Bench for their lives for sedition? But the judges resolved that they could not, because the bill was tendered in a legal way, and might not in point of law be refused; the King's courts of justice being open indifferently to all his subjects to sue and be sued. *Prynne against Prelates*, p. 20.

† Mr. St. John, of Lincoln's Inn, upon a suspicion that he had a hand in drawing Burton's answer, had his study searched, and all his papers carried off. *Strafford's Letters*, vol. II. p. 85.

unless



Anno 1637. unless his answer was admitted; the court ordered the matter of the information to be taken against him *pro confesso*, rejected the answers of his co-defendants because they could not get lawyers to sign them in proper time, and proceeded to pass sentence. The three prisoners were condemned to lose their ears in the palace-yard of Westminster; to be fined five thousand pounds each to the King's use; to perpetual imprisonment in three remote places of the kingdom, namely the castles of Carnarvon, Cornwall, and Lancaster \*. Finch added to Mr. Prynne's censure, that he should be branded in each cheek with S. L. for a seditious libeller. To this the whole court agreed. Laud made a long speech to excuse himself and brother-prelates from the charge of introducing innovations; asserted that the King was the person principally abused by the adverse party; he shewed, that zeal without knowledge was a dangerous quality, himself breathing out with ardor an enthusiastic attachment to all the trifling ceremonies he had with such an indiscreet rigor exacted; he railed with the utmost gall

The sentence passed on them.

\* The prisoners attempted to speak for themselves, but were commanded silence. Prynne endeavoured to expostulate on his case, that it was not in his power to compel his counsel to sign his answer, when they refused. The following dialogue, which passed in the Star-chamber, is another curious specimen of the behavior of the officers of law and state in this reign: The first time Finch fixed his eyes on Prynne he said, "I thought Mr. Prynne had had no ears; but it seems he has ears, and something else." Mr. Prynne said, "My lords, there is never a one of your honors but would be sorry to have your ears as mine are." "In good faith, said the lord keeper, he is somewhat saucy." "I hope your honors will not be offended, replied Mr. Prynne: Pray God give you ears to hear." On this trial the bishops declared in open court, that they held their jurisdiction from God only. *State Trials*, vol. I. p. 461. *Whitlock*, p. 22.

and

and bitterness against the unhappy prisoners, Anno 1637. whilst he magnified his own religious patience in bearing injuries; lastly, he fell upon the book supposed to have been published by the bishop of Lincoln, and said that the author had abused both himself and his readers; and ended his speech with giving the court thanks for their censure on the three prisoners\*.

The cruel sentence passed on Prynne, Burton, and Bastwick, was yet more cruelly executed: The hangman performed his bloody office with an approved barbarity. Burton's ears were taken off so close, that a considerable branch of the temporal artery was wounded, and the blood streamed down the scaffold. Prynne's were hacked barbarously; he lost a large piece of his cheek with the remainder of his ears, and the executioner applied the burning iron twice to the branding of one cheek. The patient and even magnanimous behavior of the sufferers heightened the pity and inclination of the people: They crowded with impatience round the scaffolds, and every wound given by the executioner produced

\* This speech of Laud pleased Charles so much that he ordered it to be printed and published. The archbishop prefixed to it a flattering dedication to the King, in which he asserts, that blasphemy against God, and slandering the footsteps of his anointed, were joined together: "For he who blasphemeth God will never stick at the slander of his prince; and he who gives himself the liberty to slander his prince will quickly ascend the next highest, and blaspheme God." He magnified the royal clemency in bringing the offenders to a court of mercy as well as justice; and insinuated, that the times demanded greater severity than had been hitherto exercised.

In the course of his defence he was guilty of an absurd oversight, in alleging that the King had no enemy, when at the same time the ship-writs signified that the kingdom was in imminent danger. *Laud's Remains*, vol. II. p. 63, & seq. *State Trials*.



Anno 1637. an universal groan and lamentation. The three heroes of this tragic scene harangued the populace in their turns: Prynne, with some sense and dignity, told them, that rather than have his cause a leading cause to deprive the subjects of their liberty, he had exposed his person to be a leading example to bear that ignominious punishment; he proved to them the illegality of the sentence passed on himself and fellow-sufferers; that there was no law in the realm which authorized such tyranny, the statute of queen Mary limiting the punishment of a libeller, even of the King or queen, to a fine of one hundred pounds, and one month's imprisonment, no corporal punishment, unless the delinquent refuses to pay the fine; in the statute of Elizabeth, the penalty was heightened to a fine of two hundred pounds, and three month's imprisonment; but no censure to be passed unless it was fully proved by two witnesses, who were to produce a certificate of their good demeanor, for the credit of the report, or else the crime to be confessed by the libeller\*. In the course of Prynne's harangue he told the people, that the offence which himself and fellows had committed was the not allowing the calling of bishops to be *jure divino*; that might he be admitted fair dispute, he would maintain this point against all the prelates in the world. On this his

\* From what Mr. Prynne here advances it is plain, that heavy fines, long imprisonment, and those ignominious punishments of whipping and the pillory, for writing libels, are contrary to statute-law. That they are inconsistent with Liberty is obvious; since it is incongruous to the privileges of a freeman to be subject to these slavish corrections, for other than for crimes which debase his nature as a man. The constitution of this country has never been purged from the venom with which it was infected by the erection of the Star-chamber: Its infamous doctrine and servile discipline have in many instances been adopted in the courts of common law.

audience

audience gave a loud and general shout\*. The popularity these three men had gained by their sufferings was so formidable to Laud, that he procured an order for removing them from the destined places of their confinement to Guernsey, Jersey, and Scilly †, with special directions that

\* Laud, whilst he was sitting in the Star-chamber, being told of the nature of Prynne's harangue, moved, that he might be gagged, and have some farther censure laid on him. This motion the court did not contradict, but waved it, by telling Laud, that it was beneath him to notice what men spake when they were in pain on the pillory.

Of this Laud complains to his friend Wentworth in the following strain: "What say you that Prynne and his fellows should be suffered to talk what they pleased while they stood in the pillory, and win acclamations from the people, and have notes taken of what they spake, and those notes spread in written copies about the city? And that when they went out of town to their several imprisonments, there were thousands suffered to be on the way to take their leave, and God knows what else? When any thing comes to be acted, be it but the execution of a sentence in which lies the honor and safety of all justice, yet there is little or nothing done; nor shall I ever live to see it otherwise." Wentworth, whose malice and mischief were at least equal to Laud's, returned answer, that the eyes of the triumvirate were not sealed so close as they ought to have been.

• This profligate tool of power spit his venom on a character which had deservedly gained the applause of every good and unprejudiced individual in the kingdom; this was the patriot Hamden; of whom he writes to Laud in the following scurrilous strain: "In truth, I wish that Mr. Hamden, and others to his likeness, were well whipt into their right senses. If that the rod be so used as that it smarts not, I am the more sorry." *Prynne against Prelates*, p. 44, & seq. *Strafford's Letters*, vol. II. p. 99, & seq. p. 119. 158.

† Prynne to the castle of Mont-Orgueil in the isle of Jersey; Burton to Castle-Cornet in the road of Guernsey; and Bastwick to St. Mary's Castle in the Isle of Scilly. During this their rigorous confinement, they had no allowance of diet from the crown, but were kept by the charitable contributions of their friends. About this time, Leighton was also removed to one of the remotest prisons in the kingdom. *Echard*, p. 461. *Prynne against Prelates*. *Strafford's Letters*, vol. II. p. 85.

they



Anno 1637. they should be conveyed privately, and no one to come near them during their passage; they were forbid to have any but canonical books; restrained the use of pen, ink, and paper, and all communication whatsoever. The wives of Bastwick and Burton were not permitted to set their feet on the islands where their husbands were confined\*.

Prosecution  
of Lil-  
bourne,  
Wharton,  
and others.  
Rushworth,  
vol. II.  
p. 463, & seq.

The next victims to Laud's insatiable rage were John Lilbourne and John Wharton, accused in the Star-chamber for publishing forbidden books. These men refusing to take an oath to answer interrogatories, and pleading that no Englishman was bound by the law to accuse

\* Laud's malice against these men carried him such an absurd length, that some few individuals of the town of Chester having visited Prynne in his way to Carnarvon, they were prosecuted by the High-commission; their houses broke open and ransacked by pursuivants; fined large sums of money; and to make public acknowledgment of their crimes in the cathedral-church and in the town-hall of Chester. All the lecturers and preachers in the city were enjoined, in their lectures and sermons, to make public expression of their hearty detestation of the offences for which the three offenders were censured. This order was so well obeyed by some, that the churches for many days resounded with the most bitter invectives. This did not satisfy Laud: he descended to so mean an instance of malice as to persecute a painter in Chester who had drawn several pictures of Prynne. All the said pictures were, by a warrant from the High-commission, ordered to be spoiled and defaced, and the frames to be publicly burnt. Prynne's servant, whom Laud had detained a prisoner, having been in vain attempted by promises and threats, and constantly refusing to accuse his master, was articulated against in the High-commission court; and for his refusal to take an *ex officio* oath before sight of the articles, the articles were taken against him *pro confesso*. He was fined one thousand pounds to the King, condemned to pay costs of suit, (though there was no prosecutor assigned) excommunicated, committed close prisoner to the Counter, and afterwards sent down to Wesbeck-Castle. *Prynne against Prelates, 4to. passim.*

himself,

himself, they were condemned to be whipped, Anno 1637. pilloried, and imprisoned. While execution was performed on Lilbourne, he harangued the populace, and declaimed against the tyranny of bishops. The Star-chamber ordered him to be gagged, and added to his former punishment, the lying in irons, and confinement in that part of the Fleet where the basest and meanest sort of prisoners are used to be put.

Neither women, lunatics, nor fools, escaped the fury of the archbishop's revenge and bigotry. On some disagreeable news coming to court, Archibald Armstrong, the King's jester, seeing the prelate pass by, called out, "Whaw's feule now:" for this offence the harmless buffoon, who by his office had the privilege of passing jokes with impunity, was ordered, by a sentence of the council, to have his coat pulled over his head, and to be dismissed the King's service.

The lady Davies, a woman disordered in her senses, for having prophesied Laud's death, was Haylin, p. 266. Sancerson, p. 105. prosecuted in the High-commission court. And the lady Purbeck, Sir Edward Coke's daughter, on the suspicion of having an intrigue with Sir Robert Howard, and for some words spoken in resentment against Laud, was condemned to do penance bare-foot, was committed to the Gate-house, and for the space of several years persecuted so hotly by that prelate, that she was obliged to conceal herself in different parts of the dominions, and at length made her escape in mens cloaths, and fled to France; where yet she did not find repose from the malice of her enemies. Sir Robert Howard, who had been once rescued by the parliament from an arbitrary seizure, was now, without any regular proceeding passed against him, committed to prison,

Vol. II. R and



Anno 1637. and there ordered to lie till he should produce the person of the absconded female. He was at length released, on his giving a bond of one thousand pounds that he would never see the lady Purbeck again. The poor woman's persecution did not cease here: an express messenger with a privy-seal was sent after her, to summon her into England, under pain of being farther proceeded against.

Rushworth,  
Appendix,  
vol. III. p.  
65.

One Bowyer, who was half mad, for having spread a report of Laud, that he was under censure for correspondency with the pope, was committed to close confinement to Bridewell during life; fined three thousand pounds; to be set in the pillory at Westminster and Cheapside, with a paper on his head acknowledging his offence; to be branded in the forehead with the letters L and R, and to have his ears nailed to the pillory at Reading.

Hume's  
Hist. vol. I.  
p. 216.

Some young gentlemen of Lincoln's Inn having, on a time when they were heated with wine, drank "Confusion to the archbishop," the revengeful prelate cited them before the Star-chamber: they escaped, with difficulty, the discipline of this court, by saying that one of the drawers, the only evidence against them, was mistaken, and that they had drank "Confusion to the archbishop's enemies\*."

\* Before I conclude this detail of the acts of violence and tyranny committed by Laud, and through his means, I must remark the case of one Foxly, a divine, who had shewed himself zealous in the business of buying in impropriations. The house of this man was rifled by virtue of a general warrant to search for Popish books and suspected persons; and himself, without any judicial proceeding against him, close imprisoned twenty months, to the great damage of his health, denied the use of pen, ink, and paper, and the company of his wife and friends. *Prynne's Trial of Laud*, p. 387, & seq.

Among

Among the violations of the Petition of Right, there was at this time a complaint made, that Sir Robert Berkley had refused bail or release upon their Habeas Corpus to Jennings, Pargiter, and Danvers, three men who had been committed by the King and council. Berkley had denied writs of Habeas Corpus to several individuals who had demanded them; and when they had been granted, he constantly remanded the prisoners, though they were by the law clearly bailable\*.

Anno 1637.  
Rushworth,  
vol. II. p.  
414, & seq.

The enormous, yet increasing height of monarchical tyranny which raged at this time in England, together with the small prospect of redress the times promised, occasioned numbers of the natives to sell their estates, and to ship themselves off for America, there to enjoy a Liberty lost to the inhabitants of Great Britain†. But those avowed

Many resolve to leave their native country.

\* The monopolies and other impositions of this year were, The erecting a company of maltsters and brewers, with a prohibition that none but the inhabitants of the city of London, and the out-dwellers for four miles extent, should, without a licence to be had of the said company, make malt or brew beer.

A special commission for licensing the keeping hackney-coaches and horses, granted to the marquiss of Hamilton.

An office erected for the sealing butter, with a power to the commissioners to go and enter into fairs, markets, shops, warehouses, ports, harbors, ships, vessels, and other places whatever, to search and discover butter put to sale unbranded, or branded with any counterfeit brand.

Another commission was erected for the marking casks, with the same power of entrance into shops, warehouses, houses, and cellars. *Rymer's Fœdera*, vol. XX.

† In the year 1635, the lord Say and Seal, and the lord Brook, sent one Fenwick to prepare a retreat for them and their friends on the continent of America. In consequence of this commission, a small town was built, and called by their joint names, Saybrook. *Walpole's Catalogue of Royal and Noble Authors*, ed. 1759, vol. I. p. 206.



Anno. 1637. destroyers of all the rights of humanity, the bosom-friends and ministers of Charles, unwilling that their fellow-citizens should any where possess the blessings of Freedom, prevailed with their master to issue out a proclamation, debarring the adventurers access to those uncultivated shores. Eight ships lying in the Thames, and ready to sail, were stayed by an order of the council \*. Embarked in these were Sir Arthur Haslerig, John Hamden, and Oliver Cromwell, three men of spirit, who resolved for ever to abandon a country where the laws had lost their power to protect, and fly to the other extremity of the globe, there to endure a painful solitude in wild desarts, rather than submit to a government which degraded their species beneath the condition of beasts † !

\* A warrant was likewise given to the lord-admiral to demand back those ministers who had already left England without the approbation of the archbishop of Canterbury, or bishop of London.

† Laud expresses to Wentworth his surprize at this inclination, on the latter's having complained that he wanted men to complete the plantations of Ormond and Clare: "I am sorry that you want men to fill that marvellous great work for the honor and profit of the King, and security of the nation. This is the more considerable a great deal, that you should want men in Ireland, and that the while there should be here such an universal running into New-England. But thus it is, when men think nothing is their advantage but to run from government." *Strafford's Letters*, vol. II. p. 169.

## C H A P. V.

*State of religion in Scotland.——Commutations in that kingdom.——The King and the Scots prepare for war.——Conduct of the deputy of Ireland.——Arbitrary oaths imposed there and in England.——The King's forces retreat before the Scots.——Pacification.——Naval engagement in the Downs. Dissimulation of Charles.——Scotch transactions.——Preparations for another war.——Parliament in Ireland.——Parliament in England.——Dissolution——Acts of power.——Convocation.——Impositions.——Retreat of the English forces.——Council of peers.——Treaty of Rippon.*

**T**HE grievances under which England labored were so oppressive, that the nation may justly be reproached for its seeming insensibility. Life, freedom of person, and possession of property, were held by a precarious tenure. The laws, disarmed of their wonted power to protect, lay prostrate at the foot of the throne, to be trampled upon with impunity: nor was the condition of any individual in the kingdom great enough to secure him from the lash of royal and ecclesiastical prerogative. Notwithstanding a servitude thus miserable and ignominious, the patriot party found it impossible to rouse the heavy multitude to action, or engage them to resist the growing evil. The patient herd yet waited their redress from parliament, though there was not at this time a prospect that the King would ever be reduced to the necessity of calling one. Not the most distant hopes of relief subsisted, when a small cloud began to rise in the North, encreasing its ominous appearance, till it produced a storm

Anno 1637.



Anno 1637 which spread itself all over the British dominions; and at length descended with memorable execution on that complicated fabric of imperious power which had many years domineered in this country.

The Scots had a long time murmured at the innovations made by Charles and his father in their ecclesiastical and civil liberties: these murmurs, by repeated provocations, arose to a mutiny, and that mutiny to an avowed association to defend the constitution of their country against the dangerous invasion of the crown. To shew the nature of those injuries which urged this brave and spirited people to arm in defence of their violated rights, and thus to lead the way to Freedom and to Glory, it will be necessary to take the subject up higher than the present period, and shew the illicit steps of power which were taken in the preceding reign.

State of religion in Scotland.

The government of the reformed church of Scotland was, by the state of that kingdom, settled on the plan of the churches of Switzerland; and the preservation of its discipline was committed to the care of presbyteries, provincial and national synods. Nor did the prelates obtain other favor, than leave to enjoy their revenues, on condition that they should embrace the reformation, and maintain ministers. Queen Mary, assisted with the Popish party in the kingdom, found means to prevent the parliament from passing an act whereby episcopacy should be expressly abolished. Nevertheless, the national synod, or general assembly, to whom from their first institution was entrusted a great authority, solemnly approved of the Geneva discipline, and parity among ministers. In 1587, after many struggles of the court to re-establish episcopacy, and

Spotswood,  
p. 175.

and after some acts of parliament had been obtained in favor of bishops, the parliament annexed to the crown all the lordships and baronies appertaining to archbishops, bishops, abbots, &c. In 1592, all the acts in favor of prelacy were repealed, and the jurisdiction of bishops abolished. This act was confirmed in 1593; and in 1594 the authority of presbyteries was solemnly acknowledged. King James, who was continually entering into projects to enlarge his power, found that episcopacy was a necessary estate in parliament, and carried an act in 1597, which granted the privilege of a voice to the whole church, and, under that name, to bishops and abbots, even as in times of Popery; but this was to be no prejudice to the established discipline and jurisdiction of the church.

Anno 1637.  
Spotswood,  
P. 365,  
Nelson, vol.  
I. p. 162,  
& seq.

To silence the opposition which this occasioned, James called a general assembly, held at Montrose in the year 1600, and presiding himself, he pressed so earnestly the confirming the act which the parliament of 1597 had granted in favor of bishops, that the assembly, rather than suffer the inconveniency of a rupture with a prince who was every day growing more powerful, complied with his request, under the following conditions: "That the bishops should obtain a commission from the general assembly, to whom they should be accountable for the discharge of their office; that they should move nothing without an express order from the church, nor be silent when its liberties were in question; that they should submit their conduct to the censure of the national synod, without appeal; that they should not endeavor to enlarge their benefices, to the burthen of ministers, nor suffer them to go to decay, nor dispose of any thing belonging

Spotswood,  
P. 458, &  
seq.  
Rapin. vol.  
X. p. 319,  
& seq.



Anno 1637. ing to them without the consent of the King and general assembly ; that they should exercise the functions of pastors in their own congregations, be subject to the censure of their own presbyteries, the provincial and general assembly, like the rest of the ministers who were not commissioned ; that they should usurp no power or jurisdiction beyond others ; and that they should not be members of the general assembly, unless they were expressly deputed by their presbyteries."

When James acceded to the throne of England, he acquired such an additional influence over the Scotch parliament, by the emoluments he was enabled to bestow on the individuals of that nation, that in 1606 the act of annexation was annulled ; and in 1609 the authority, privileges, and jurisdiction of prelacy were restored, and the bishops took possession of the government of the church, notwithstanding the conditions of the Montrose assembly, none of which had ever been performed by them. The general assembly protested against the act, and affirmed the parliament had no power, without their consent, to restore a spiritual office which had been abolished. This having a great effect upon the people, James called a general assembly, to be held at Glasgow ; and by the help of the bishops, who had now a great influence in elections, he gained before-hand a majority of votes, and accordingly the corrupt assembly gave its voice, that the bishops should resume their spiritual function, and the government of the church. In 1617, the parliament, which was now entirely at the devotion of the crown, ordained that bishops should be elected by chapters, and consecrated by the accustomed rites.

After

After episcopacy was thus fully restored, Anno 1637. James, who had contracted an aversion for every thing which belonged to Calvinism, and entertained a vehement desire to introduce into Scotland the doctrine, as well as the discipline, of the church of England, imposed upon that kingdom the five articles which have been mentioned in the history of his reign. The bishops now bore an absolute sway in presbyteries; and by making themselves moderators, the general assembly was composed of deputies of their own election: this new innovation, therefore, was confirmed by one held at Perth in the year 1617\*. James, who now drove on at a furious rate, set up in Scotland, by his own authority, a High-commission, though the Scots had never even complimented their King with being supreme head of the Church. If any opposition yet remained, it was conquered by the severities which this new court of judicature exercised; and an assembly at Aberdeen agreed, that it would be proper to draw up a liturgy to be used in every church in Scotland.

The passion James had for rooting out Calvinism was at length diverted by an object which engaged his whole attention, the matching his son with a daughter of Spain; and the church of Scotland, defaced in its form, and innovated in its discipline and faith, was suffered for some time to remain in repose: It was left to the more zealous and more inflexible son to complete what the father had left unfinished.

\* To render the church more at his devotion, James, when in possession of the regal revenue of England, made an addition to the stipends of the ministers; which, on their shewing a reluctance to comply with this innovation, was stopped for a whole year before this assembly was called.  
*Spoilswood, p. 536.*



Ann 1637.

Charles, when he had, as he thought, firmly established an uncontroled, unlimited power over Great Britain, seriously entered into the project of bringing about in the three kingdoms a perfect conformity to that form of worship he deemed most agreeable to absolute monarchy. We have seen that James, in his scheme of enlarging his authority, endeavored to corrupt the democratical powers in church and state, and render them the means of their own destruction: The more undaunted Charles kicked them out of the constitution, as he had entirely discarded parliaments in England, so he never suffered a national synod to meet in Scotland.

Clarendon,  
vol. I. p. 83.

In the year 1633, when he returned from that kingdom, he left in charge with the bishops there to compile a liturgy and a book of canons: These were to be transmitted into England for Laud's approbation, who called to his assistance Juxon bishop of London and Wren bishop of Norwich; this last equalled the primate in bigotry, and in sourness of disposition. Notwithstanding the seeming triumphant state of the monarch, the men of power and interest in Scotland did not so readily yield to his pretensions as they had submitted to the encroachments of his father. The splendor of his estate, at his accession to the triple crown of Great Britain and Ireland, had, by its novelty and brilliancy, dazzled their eyes; the abjectness of the English nobility had infected them with a like tinct of servility; the profusion of favors which the prodigal James had lavished on them rendered them for some time blind to the concerns of their real interests; but many circumstances now concurred to take away that film of venality which had so long obscured their judgment. Those golden dreams of continuing  
the

the special favorite of a powerful monarch, of Anno 1637. being constantly fed with the riches of England, whilst they yet enjoyed their own constitution, were now vanished, and the dismal prospect succeeded of their country sinking into a province to a state governed by tyrannic sway. The weight of the yoke which they had helped to fix on their own necks grew insupportable. The bishops, who enjoyed the largest share of the pious King's favors, exerted their new acquired authority with a provoking imperiousness: not satisfied with the general High-commission, they produced warrants from the King for setting up such a jurisdiction in their several dioceses; this was put in practice by the bishop of Galloway. They exacted a new oath of intrants, in which they were obliged to obey the articles of Perth\*, and submit to the designed liturgy and canons. They got one Learmonth, a minister, presented abbot of Lindores, and entered into a project, which was countenanced by the King, to get the state of abbots, with the revenue and power belonging to it, restored into the hands of churchmen. Not contented with such a plenitude of spiritual jurisdiction, they voraciously grasped the civil offices, which were dealt out to them with a bountiful hand by their bigoted master. Spotswood, archbishop of St. Andrew's, was created chancellor, nine bishops were privy-counsellors; they possessed places in the Exchequer, and an attempt was made to revive the first institution of the college of justice, half of which were to be churchmen. Besides these grievances, which were highly resented by the Scotch nobility, the

*Memoirs of  
the Duke of  
Hamilton.  
p. 30, & seq.*

\* At the passing the articles of Perth, it had been expressly conditioned, that none should be obliged to conform to them.  
manner



Anno 1637. manner in which Charles had imposed on them the law of resumption of the crown-lands, and the law which enlarged his power in ecclesiastical matters, and confirmed religion in its present state, rendered them quite desperate. They concluded very judiciously, that the physic must be violent which restored the constitution to its natural health and beauty. These sentiments were concealed with the utmost caution; they waited with impatience the opportunity when Charles, by an act of apparent illegal power, should convince the multitude that the times demanded a determined opposition.

The nature of the canons and liturgy which were to be imposed on the nation was no secret to them; and it is said that both sides eagerly expected their publication; the bishops to possess an addition to their power, and the nobility and discontented ministers the occasion which should provoke the already-enraged multitude to mutiny\*.

So wanton were Charles and Laud in the exercise of their power, so much did they despise any supposed opposition, that the canons, which ordained a punctual compliance with the liturgy, were published a whole year before the people were supposed to know what that liturgy was. The canons themselves were of the most offensive kind, containing matters so superstitious and arbitrary, that they left no doubt in the minds of the people what part it behoved them to act on the introduction of the liturgy. They asserted, that the King's power and prerogatives were in

\* The extreme severity with which the non-conformists had been lately used in England, inflamed the aversion which the Scots had to the government of bishops. *Larrey*, vol. 1. p. 336.

every thing equal to those of the Jewish kings, absolute and unlimited. They ordained, that no ecclesiastic should become bound for any man; that no assembly of the clergy should be called but by the King only; that ecclesiastical persons, dying without heirs of their body, should leave a good part of their estate to the church, and though they should have children, yet to leave some to the church; that the clergy should have no private meetings for expounding the scriptures; that they should not pray extempore, but be obliged to pray by the printed form prescribed in the liturgy; that whosoever should affirm that the form of worship inserted in the Book of Common-Prayer, and Administration of the Sacraments, did contain any thing repugnant to the scriptures, or were corrupt, superstitious, or unlawful, in the service and worship of God, should be excommunicated, and not be restored but by the bishop of the place, or archbishop of the province, after his repentance and public revocation of that wicked error; that no one should teach school without a licence from the bishop of the diocese; that neither excommunication should be pronounced, or absolution given, but by approbation of the bishop; that presbyters should not reveal what they received in confession, except their lives became forfeited by concealment; that no person should be admitted in holy orders, or perform any ecclesiastical function, without first subscribing these canons.

Notwithstanding the effect which this publication must have on a people averse to slavery, and who abhorred the most distant approach towards Popery, yet such was the excellent order in which the multitude were kept by those who guided the popular counsels, that nothing like a mutinous

spirit



Anno 1637. spirit appeared in the nation for the whole year these were promulged before the reading the liturgy. The general disquiet was vented in such low murmurs, that the bishops exulted in a fancied security that the royal commands would meet with an obsequious obedience. The liturgy intended to be imposed on Scotland was copied from that of England, except some alterations which seemed to approach nearer the doctrine of transubstantiation \*.

Commo-  
tions in that  
kingdom.

On the sixteenth of July 1637, the ministers in Edinburgh intimated from their pulpits, that the next sabbath the new service-book would be read in all the churches: This intelligence was received by their several congregations with an apparent composure; and, on the appointed day, the bishop of Edinburgh came in great state from Holyrood-house to assist at St. Giles's, the cathedral-church of the city. No sooner was the fatal book opened, and the dean (arrayed in his surplice) began to read, than the multitude raised a frightful out-cry, clapping their hands and ex-

\* One of the alterations was in the consecrating prayer. " Sanctify by thy word and spirit these creatures of bread and wine, that they may be to us the body and blood of thy beloved son." One of the reasons which Charles, in a declaration, gave for these alterations, was, that the Roman party might not upbraid us with any material difference in our liturgy. Mad. Motteville, a domestic of Ann of Austria, in her *Memoirs of that Princess's Life*, says, That Charles put the service-book into his queen's hand, telling her, he would have her peruse it, that she might see how near they came to the faith. Guthrie the historian observes, that Laud had a view to farther refinements in the English liturgy, in compiling a new one for Scotland, which had in it, both in the doctrinal and exterior part, more of Popery than that which was at this time observed in England. *May's History of the Parliament of England*, fol. ed. 1647, p. 31, & seq. *Fuller's Church Hist.* book XI. p. 160, & seq. *Guthrie's General Hist. of England*, vol. III. p. 935.

claiming,

claiming, "A pope! a pope! antichrist! stone him! stone him!" The bishop then mounted the pulpit, and prepared to reprove the people; but an old woman flinging a stool at his head, he quickly retreated from that place of eminence\*. Spotswood the chancellor commanded the provost, and the other magistrates of the city, to suppress the disorders: They turned the most clamorous of the multitude out of the church, and the dean proceeded to read the liturgy. He was not at all attended to by the remaining congregation; and those who were without broke the windows, and continued to pelt the reverend pastors with stones and dirt: It was not without difficulty that the bishop got home in a whole skin.

In this first onset, there appeared no actors but of the lower sort of people†. Traquaire the treasurer, who had been the only layman consulted in those matters, in his dispatches to the court, laid great blame on the bishops for the violence and forwardness of their conduct, and seemed to insinuate, that the King's commands might, with a more circumspect carriage in the prelates, be easily accomplished, without farther resistance. At the desire of the magistrates of Edinburgh, the council interdicted the reading the liturgy till the people should be more disposed to receive it; and all things continued in a state of quietness for some time: But on the seventeenth of October, when the harvest was over, people from all parts of the country flocked to

\* Bishop Guthrie says, that it was concerted among Alexander Henderson and other ministers, that the women should begin the tumult. *Guth. Memoirs*, p. 20, & seq.

† The populace were wittily compared to Balaam's ass, whose mouth the Lord had opened. *Smaller's Complete Hist.* vol. VII. p. 148.



Anno 1637. the metropolis to petition against the service-book; and now the men of rank and property avowed their discontent. Mr. Alexander Henderson and Mr. James Bruce, two ministers who had been charged to read the liturgy under pain of horning, supplicated the council for a suspension of their charge, pleading, that in matters of God's worship they were not bound to a blind obedience; and that the reformation of religion was, by the independent constitution of the church of Scotland, left to the care of general assemblies. The council, to the great mortification of the bishops, dismissed the ministers without any marks of displeasure, and moreover promised to refer their petition to the King. In vain did the council issue out proclamations to disperse the multitude: They beset the council-house, and threatened to kill all within, unless they engaged to join in opposition to the service-book, and to restore to their pulpits three silenced ministers, Ramsay, Rollock, and Henderson.

These tumults were succeeded by an orderly deputation of commissioners, to present two petitions to the council against the service-book and book of canons; one from the men, women, children, and servants in Edinburgh, and the other in the name of the noblemen, gentry, ministers, and burgessees. Charles was little inclined to give satisfactory answers to the petitioners, the most forward of whom he was determined to punish severely. He commanded the privy-council to put out a proclamation, avowing a detestation of Popery and superstition, and that nothing should be allowed within his dominions but what tended to the advancement of true religion, as at present professed; nor was any thing intended against the laudable laws of that

that kingdom. This was little calculated to appease the growing discontent, since "religion at present professed" contained the hierarchy; and every body knew the King understood that the laws of the kingdom gave him a power to impose on his subjects what alteration in the forms of religion he pleased. The earl of Traquaire went to London to lay the state of affairs fully before the King, and to endeavor to make him desist from his attempt. Anno 1637.

In every circumstance of this national discontent, symptoms had appeared which threatened a dangerous insurrection; yet was the King inflexible; no arguments could prevail on him to give his people assurances that they should not be pressed to conform to any farther innovations in matters of religion. All he could be brought to was, to issue a proclamation, in which he pardoned all past offences; but forbade them to assemble again on pain of high-treason; and that no person should presume to approach Stirling, whither the council was removed, without permission. He commanded all noblemen, gentlemen, and others, not belonging to the council or court of justice, to quit that town in six hours, otherwise they should be declared traitors. The day after publishing this proclamation at Stirling, the earls of Home and Lindsey read a protestation, in the name of the people, against it: This was afterwards repeated at Lithgow and Edinburgh. From this crisis the opposition carried a very formidable appearance. The mutineers became so enraged, that they talked of putting the chancellor (Spotswood) to death, a fate which had attended Hamilton, one of his predecessors in the archiepiscopal see of St. Andrew's. Anno 1638.

VOL. II. S wood



Anno 1638. wood was suspected of Popery \*, and was detested on account of the officious part he had acted in the prosecution of the earl of Balmerino.

The multitude were diverted from an attempt on his life by their leaders ; and an excellent order succeeded, the party forming themselves into four tables : One consisted of nobility, another of gentry, a third of burgessees, and a fourth of ministers. The table of gentry was divided into subordinate ones, according to their several counties. Each table consulted on matters to be proposed to a general table, composed of commissioners chosen from the other four. Orders were issued out from this, which were every where obeyed with the utmost punctuality. A solemn league and covenant was the first act which this admirable system produced : It was sworn to with the utmost alacrity by the whole party ; and consisted, first, of a renunciation of Popery, formerly signed by James in his youth ; to this was annexed a bond of union, by which the subscribers obliged themselves to resist innovations in religion, and to defend each other against all opposition. Zeal was expressed for the King's person and government ; but this was conditional, it being always joined with the maintenance of the true religion of the church of Scotland. There could not, therefore, be a more politic machine invented to unite people of every kind of disposition ; all ranks, all ages, and sexes, flocked to subscribe ; the King's ministers and counsellors followed the example ; and none but the confirmed tools of the court, or men infected with Popery, withdrew themselves from what was esteemed so salutary, and so pious a combination.

\* He had been formerly prosecuted for having been openly at mass in France. *Oldmixon*, p. 117.

Scotland now grew too hot for the prelates. Anno 1638. The hated bishop of Galloway had been pursued with execrations, and obliged to take shelter in the council-room. The archbishop of St. Andrew's had a very narrow escape at Stirling. They fled in a body to London, from the fury of the covenanters; and Charles, who looked upon no sin equal to that of disobedience to monarchs, was surprised at the increase of power and influence which the party in opposition had gained. He began to apprehend the consequences; and sent the marquis of Hamilton as his commissioner to treat with the covenanters: The covenant was required to be renounced; and he thought he made very considerable concessions, when he offered to suspend the canons and liturgy till, in a fair and legal way, they could be received; and so to model the High-commission that it should no longer be a just grievance.

It is a question whether such general declarations would ever have given content; but in the present circumstances they were treated with the utmost contempt. Hamilton, in an answer to the King's demands, was told, that they would sooner renounce their baptism than the covenant; and he was invited by the ministers to subscribe it. They had taken care that the commissioner should not be in a situation to give himself airs of authority, for his vassals were forbid to attend him during his stay in Scotland; and having been invited to reside at Holyrood-house, the chief covenanters met him with sixty thousand followers in their train \*. He was told by the earl of

\* The covenanters sent Hamilton a prohibition against reading the service-book in the King's chapel. *A Short View of the Troubles of England*, by Sir William Dugdale, fol. ed. 1681, p. 47.



Anno 1638. Lindsey, that the people insisted on having the articles of Perth annulled, episcopal authority abolished, and that if a free general assembly and parliament were not called by the King, they would call one themselves. In the mean time they had not been idle: Two large ships came laden into their ports with arms and ammunition; by a decree of the tables, the keys of the city were taken from the magistrates of Edinburgh; a guard of fifteen hundred men set upon its avenues, and another strong guard prevented the reinforcing the castle. When Hamilton talked over the state of affairs with the council, he found that if he proceeded to any measures which were disagreeable, he would not only be affronted in the exercise of his authority, but be deserted by the majority of the council: He endeavored to prevail on the eminent lawyers and judges of the session to declare the covenant unlawful; but they excused themselves, on pretence that they feared the resentment of the people.

In this situation he found himself obliged to suppress, in a declaration he had brought down with him, that part which required the subjects to renounce the covenant. As this declaration still ran on the general expressions of the King's aversion to Popery, and his steadiness in the true religion, promising nothing more than what had been already tendered, it was met by a very sensible protestation, which avowed, that they never doubted his majesty's orthodoxy, and therefore desired to inform him how far the innovations, which the enemies of their religion attempted to introduce, were full of Popish errors; and farther complained, that his majesty's proclamation took no notice of their supplications and just griev-

grievances, but under the name of the great increase of disorders, faults, and misdemeanors \*.

Hamilton's next care was to get an act signed by the council, approving the King's declaration, with an opinion that the people ought to rest satisfied with it. This was obtained craftily, in the absence of members who had publicly avowed their disapprobation; but the next day, many of those who had been prevailed with to sign told him, that upon second thoughts they found they had wronged their consciences; therefore desired he would call a new council, that they might retract what had been too hastily determined. In vain were Hamilton's endeavors to divert this humor: He was told, that another way would be found to make the retraction known; and was at length obliged, the act not having been yet registered, to tear it. According to the King's direction, the party was gratified with the bringing back the session to Edinburgh; and the commissioner returned to court, leaving the covenanters in hopes he would be back again in three weeks or a month, with a favorable answer to their demands. He moreover made them a kind of pro-

\* This declaration, which gave so little content to the covenanters, was but a copy of Charles's countenance, till his military preparations, which he was at this time providing with great secrecy, were complete. He writes word to Hamilton, that he is content that he forbears insisting on the covenant being given up till he hears his fleet is ready to set sail for Scotland; that he gave him leave to flatter the party with what hopes he pleased, provided that he did not consent to the calling a parliament or general assembly till the covenant was given up; that though the ruin of his people for some time would be a loss to him, yet when he considered that his crown and reputation were at stake, he had rather suffer the first, which time would help, than the last; and that he would sooner die than yield to their impertinent and damnable demands. *Burnet's Memoirs of the Duke of Hamilton*, p. 55, & seq.



Anno 1638. mise of summoning, at his return, a general assembly; but with the following restrictions: That no laicks should have voices in chusing the ministers to be sent from the several presbyteries to the general assembly, nor any but the ministers of the same presbyteries; that the assembly should not go about to determine of things established by act, or otherwise than by remonstrance or petition to the parliament. The tables rejected these conditions; and in the absence of the commissioner resolved, that a general assembly should be held on the twenty-second of September.

Hamilton represented to the King, in its full light, the situation of his affairs in Scotland, the strength and firmness of the covenanters; he convinced him, that he was deceived in the imagined forwardness of his military preparations, and that it was necessary to keep on the mask of condescension till he had collected a sufficient force to give the law to his Northern subjects. Hamilton's council was followed; he was again sent down, with farther concessions: the discharge of the service-book, the book of canons, and the High-commission. Moreover, to break that perfect union which the covenant had effected in Scotland, and to remove the ill opinion the Scots had adopted concerning the religious sentiments of their King, it was proposed, that the confession of faith established at the Reformation should be renewed, with a general bond prescribed by the King \*. This expressed to the sovereign an

\* This was a very mean hypocrisy in Charles; since this confession of faith which he signed was not only a violent renunciation of the material part of Popery, but of the Arminian tenets, the consecration of churches, and many other particulars which Laud had, by his approbation, introduced into the church of England.

absolute duty, without any conditions of good government, or the weal of the church and state. Anno 1638.

It was not without reason the ministers from the pulpits had warned the people to beware of trusting to appearances, and falling into the snare of the enemy; they declaimed violently against the new covenant, which after it had been signed by the council \*, with an order for a general subscription, was followed by a proclamation for summoning a general assembly at Glasgow the twenty-first of November, and a parliament at Edinburgh the fifteenth of May the year following; the service-book and canons having been previously discharged. The covenanters were so far from avowing themselves satisfied with these seeming concessions, that they erected a scaffold under the Cross at Edinburgh, and mounting it with their swords in their hands, protested against the new covenant, as a machine of state, invented to destroy the efficacy of the old one, to entrap them into a self-condemnation, as if their own subscription, not urged by authority, was unlawful, and thus stigmatise the like laudable courses in the like necessity to be taken by posterity †. They affirmed, that the subscription and oath attempted to be imposed on them might consist with all the corruptions which had lately crept into the church. They cavilled at the nature of the King's proclamation, which only dispensed with

\* It was with great difficulty Hamilton prevailed on the council to sign the King's covenant. *Memoirs of the D. of Hamilton*, p. 180.

† In the King's declaration, before the confession and bond which was now required to be subscribed, it was asserted, that that which had been previously taken must be null and void in itself, because not taken by royal leave and authority. *Memoirs of the Duke of Hamilton*, p. 67, & seq.



Anno 1638. the practice of the articles of Perth, but yet declared an intention that those acts of the general assembly and parliament which ordained them, should stand. They objected likewise to the directions concerning the oath to be given to ministers at their entry, it supposing that the office of bishops was unquestionable; but above all, his majesty's declaring that he would admit no innovation therein; his summoning all prelates to be present at the ensuing parliament and national synod; his warning all archbishops and bishops to be present, as having place and voice in that assembly, contrary to the caveats, acts of the church, and the declinator, which had been offered against them. They complained that the King, by restrictions, additions, and ambiguous clauses, rendered of no effect all his concessions, reserving to himself a liberty to maintain, at a more convenient season, all those novelties he seemed to depart from.

Before the innovations made in the last reign, it had been usual for each presbytery to send to the assembly, besides two or three ministers, one lay-commissioner; the boroughs and universities sent likewise commissioners. James, who dreaded such an alloy to the corruption he had found among ecclesiastics, abolished this institution. It was now revived by the covenanters; and as the success of their cause depended on the integrity of the commissioners, by an edict of the Tables it was ordained, that a lay-elder from each parish should attend the presbytery, and give his vote in the choice of commissioners. Every commissioner was allotted four or five lay-assessors, who had leave to interpose with their advice on the matters to be agitated in the assembly.

The mal-contents having thus taken every necessary step to render the transactions of this meeting agreeable to their views, on the appointed twenty-first of November the assembly met at Glasgow; and as James, by his corrupt management, had taken care to get every thing passed which he desired, so the Tables now turned the tide upon the crown, and took certain means to get all those pernicious transactions annulled. Hamilton had giving Sir Thomas Hope, the King's advocate, orders to follow him to Glasgow, and prepare himself to defend episcopacy, and prove it to be according to the laws of Scotland. This man, who, though a servant of the crown, was honest, and loved the Liberties of his country, answered, That it was against his conscience so to do; that he judged episcopacy to be contrary to the word of God, and to the laws of the church and kingdom. The lord Lorn, whose father, the earl of Argyll, a Roman-Catholic, being lately dead, was now at full liberty to declare his principles, avowed the cause of the mal-contents, and assisted in the business of the assembly. Argyll's \* example was followed by lord Areskyn, eldest son to the earl of Marr, and three more of less note, who desired to be admitted to receive the covenant.

The fate of the bishops was the first thing the assembly decided: a charge was brought, accusing them of perjury, in the not observing the cautions of the Montrose assembly, to which they had solemnly sworn; and likewise of heresy, simony †, bribery, cheating, fornication, adul-

\* He came to the assembly in quality of assessor to the commissioner. *Guthrie's Memoirs*, p. 40.

† General complaints had been made of simoniacal practices with the bishops' servants; in which practice, as they had



Anno 1638. tery, incest, swearing, drunkenness, gaming, and breach of the sabbath. The bishops declined \* the authority of the assembly, and the commissioner, who had orders from the King merely to suffer the assembly to meet as a literal performance of his promise, protested against it, as illegally constituted, and in the King's name dissolved it †. This measure gave no disturbance to the matters in hand; the court continued to sit, and to finish their business, first entering a protestation, in which they proved, by the records of the general assemblies, and in particu-

had never been restrained by their masters, the crime was imputed to them. As for the other offences, it was alleged, that they had all been committed by some one or other of the body, and therefore it might justly be put into a general charge, in which it was impossible to state the particular crimes of each individual. Though the offences in point of morality which were charged against these bishops are doubtless much aggravated, yet it is acknowledged by all impartial historians, that the lives of the prelates were not so pure as were, in these times, those of the generality of the ministers.

\* In the bishops' declinator, they disclaimed the holding their calling from commission by the act of the Montrose assembly, but by his majesty's consent and approbation; that they acknowledged him only *Deo minore*, next unto God in all causes, supreme governor over all persons spiritual and temporal; that it was absurd and contrary to the practice of all Christian churches, that archbishops and bishops should be judged by presbyters; that the act of parliament abrogating in ecclesiastical causes, did not infer the abrogation of that authority which they received, not from the parliament, but from Christ, who entrusted to them the spiritual oversight of the clergy under their charge, whereto belongeth the presidentship of all assemblies for matters spiritual, always with due submission to the supreme governor. *Nelson*, vol. I. p. 109, & seq.

† The King having appointed six privy-counsellors to be assessors to his commissioner, the assembly absolutely refused to admit of their suffrages. At the same time they declared, that if the King himself was present, he should have but one voice, and that no negative one. *Echard*, p. 469.

lar by the example of one held in the year 1582, Anno 1638. a right of sitting notwithstanding any command to the contrary.

They then proceeded to annul the acts of every assembly since the year 1605; the service-book, the book of canons, the book of ordination, the High-commission court, and the articles of Perth, were condemned, episcopacy abolished, and the bishops all deposed and excommunicated, except four, who never having approved of the conduct of their brethren, acknowledged the authority of the assembly, and submitted to return to the rank and calling of ordinary presbyters. The book of canons had been pretended by the King to be no other than an abstract of the acts of all the national synods; it was for this reason the real acts were with great care collected by the covenanters, and produced in this assembly. Before the synod broke up, they ordained annual meetings, and appointed one to meet at Edinburgh on the first of July 1639.

Baker's  
Chronicle,  
p. 463.

When the lords of the council signed the King's covenant, they made an act, declaring, that they subscribed the confession of faith according to the tenor and date of that of the second of March 1580. This was not agreeable to Charles's views, who intended by the word "present" all those novelties in religion which had been introduced by himself and his father. The covenanters not having been able to prevent the confession of faith, with the obligatory clause annexed to it by the King, from being signed by many people, laid hold on the explanation which had been made by the privy council, and declared the present covenant to be the same with that which had been allowed in the year 1580 by king James, and that episcopacy was by the former abjured.



Anno 1638. abjured. This was protested against by Hamilton in the King's name, alledging, "That all oaths must be taken according to the intention of that authority which exacteth the oath; and that it was never by his majesty intended, that episcopal government should be abjured, or any thing else which was established by acts of parliament or acts of the church now in force, and which were so at the time of the taking the oath." This was followed by a proclamation, forbidding, in very high terms, the subjects to pay any obedience to the dictates of the Glasgow-assembly, and the presbyteries, sessions of the kirk, and ministers, to presume privately or publicly to authorise, approve, justify, or allow, the said unlawful meeting.

It has been alleged by many authors, that Charles's concessions were such as ought to have satisfied the Scots, though that is a point which cannot be granted by any rule of good policy; yet certain it is, that the Scots knew those concessions were not sincere; that he only waited the opportunity to retract them; that he had been all the time secretly making warlike preparations to put himself in a condition to punish the heads of the covenanters, and to secure himself from any opposition to his farther designs on their country. The earl of Argyll was a man of good sense, and being well acquainted with the King's real sentiments, knew the future liberty of Scotland depended on the vigorous and determined conduct of the covenanters; that if the party was divided, they must from henceforth take the law from Charles and his cabal. It was for this reason he fell entirely in with the malcontents, and was the foremost in all the spi-

rited measures which were taken against the Anno 1638.  
crown \*.

\* The busy officious Wentworth wrote Argyll several letters of advice concerning his conduct, with many abusive animadversions on the carriage of the Scots, and on those points of discipline on which they so rigidly insisted. These were answered by the earl with great temper and prudence, giving Wentworth, at the same time, a check for his meddling with the constitution of a church and state of which he was not a member, and in which he had no concern. In the first of Wentworth's letters he tells Argyll, that "It is his interest, as a nobleman, to be active in upholding the prerogatives and full dominion of the crown."

Nothing can be a stronger picture of the man, nor of those mean principles which actuated him, than this sentiment; his whole ambition was now centered in being the satellite of a tyrant; but the wiser Argyll could not be affected by this weak argument; his juster politics concluded, that the greater the property and the privileges of a subject were, the more it behoved him to keep the power of the crown in its due bounds; since when the prerogative of an individual is unlimited, nobles, like the meanest-conditioned plebeian, are liable to be insulted and trampled on, not only by the tyrant, but by his minions; the deputy's behavior in Ireland to many men of rank and property, was a recent example of this kind. Wentworth is very high in his answer to Argyll's rebuke: "His majesty, writes he, hath by his royal proclamation declared to the whole world his own most excellent judgment of the fact. For my part, I so deeply reverence my master's approved wisdom, that I should condemn it in myself as a high presumption, to discourse any farther a question resolved by royal sentence and authority. Thus we have been taught, and thus we practise; so as for the time to come I shall perfectly obey, as you are pleased to wish I should, to wit, meddle little; yea in truth, not at all, with a point thus cleared; so as neither the disobedience, nor yet the thought of it, by the grace of God, shall ever enter farther into my heart, but, quieted in myself, entirely and attentively execute as his majesty shall ordain for me. Finally, my prayer and trust is, that God shall of his grace give us a right understanding to pay those duties to those Gods on earth he hath commanded; and were there no law, yet might his majesty's own personal piety persuade us all thereunto." These letters, with Argyll's answers, were all sent by Wentworth to the King. *Strafford's Letters*, vol. II. p. 210. 246. 290. 299.

The



Anno 1638.  
Both Charles  
and the Scots  
prepare for  
war.

Anno 1639.

Rapin,  
vol. X.  
p. 367.

The transactions of the Glasgow-assembly caused both sides to pull off the mask, and openly prepare to defend by arms their several pretensions. The beginning of the year 1639 was spent in vigorous preparations against the Scots. Charles summoned all the English nobility to meet him at York on the first of April following. In this he affected the ancient manner; but in this, as in all other acts of administration, he was very defective in point of law: for the possessors of certain crown-lands lying in Northern counties were the only people obliged to furnish troops for the Northern borders. This was not the only unpopular method taken to support the destined war: the Papists shewed great zeal against the covenanters; and the queen, desirous of ingratiating her party of recusants yet more into her husband's favor, wrote circular letters to the whole body, requiring them to contribute largely towards the King's necessities. Her chief agent was Sir Kenelm Digby, whose father had been executed for the Popish plot. A kind of emulation appeared between the Papists and the English clergy, who had been stimulated by Laud, to out-do each other in contributions towards the war against the Scots\*. This circumstance helped to cool the zeal of the rest of the English subjects, who called it "the bishops' war," and in ridicule termed Charles "the archbishop of Canterbury's knight."

On the fame of these proceedings in England, the Scots seized on the castles of Edinburgh and

\* The civilians also contributed their share. Laud had procured some privileges from the King in behalf of this body: That half of the masters in Chancery should be always civil lawyers, and that they should serve as masters of Request.

Dumbarton, and on the arms and amunition they Anno 1639. found in the King's magazines; they made levies, formed an army, and appointed Alexander Lesley their general, an experienced officer, who had served with great reputation under the king of Sweden. The care of the coast adjacent to Ireland was committed to the earl of Argyll\*; and Aberdeen, the university of which had declared for the King, to the earl of Montrose. They fortified Leith, the sea-port of Edinburgh: as this was a place of great consequence, the works were carried on with rapidity; not only the inferior sort, and those who assisted for pay, performed the drudgery of manual labor, but nobles, gentry, women of all ranks, laid aside the effeminacy of their manners, and, emulating Grecian virtue, intermingled with the low herd, and carried on their shoulders the materials requisite for completing the fortifications. The covenant was sworn to by almost all the Scots in foreign parts; and the officers who had acquired reputation in the German war repaired home to assist their country in her present necessity.

The most active agent against this brave and determined people was the deputy of Ireland, a Conduct of the deputy of Ireland.

\* The earl of Antrim, a weak bragging man, who had married the duchess-dowager of Buckingham, pretended a title to part of the earl of Argyll's estate. Charles had the imprudence, before this nobleman had declared himself, to promise Antrim assistance in a scheme of invading Argyll's territories in Scotland. This served no other purpose than to give Argyll the alarm, and furnish him with a vindication, if he had wanted one, for the part he acted; since Antrim, though a grandson of Tyrone, and one of the heads of the Popish party in Ireland, was, from the poverty of his circumstances, and the weakness of his abilities, unable to fulfil any part of his engagements. *Strafford's Letters*, vol. II. p. 325.

man



Anno 1639. man who had entirely devoted himself to the worst designs of the court, and had ran lengths which no English subject had ever yet done without paying the forfeit of his life. He was, from these circumstances as much personally engaged in the quarrel as Charles himself. Not only the maintaining that station in the government, to the precarious enjoyment of which he had sacrificed his honor, the liberties of his country, and the liberties of his posterity, but even the security of his life, depended on the power of his master. He was so great a dupe to his own vicious affections, and had so little knowledge of the disposition of the English people towards the government, and their real sentiments on the important occasion of the intended war with Scotland, that he fancied the jealousy which had hitherto existed between the two nations, and which had flamed out violently on the partiality James had shewn to some of his Scotch subjects, would have made the English, notwithstanding the insults and provocations they had received from the Stewart family, notwithstanding the subjected state of their once-free constitution and the deprivation of all their privileges and immunities, assist their King in his pretensions on Scotland; and for the sake of distressing a people who had never done them any injury, exalt their real enemies, fix the yoke on their own necks, and become equal slaves with the people they assisted to conquer. Deceived by these idle notions, he gave the King the most violent counsel, indeed such as his circumstances would not permit him to practice; viz. the answering the demands of the covenanters with a true monarchical imperiousness—attaching the persons of the presbyters, and holding them in close imprisonment; but  
above

above all, not to submit to any essential concessions: "For should, argued he, these rude spirits carry it thus from the King's honor to their own churlish will, it would have a most fearful operation upon England; therefore God Almighty guide his majesty's counsels and strengthen his courage, for if he master not them, and this affair so much tending to the tranquility of his kingdoms, to the honor of Almighty God, I shall be to seek for any probable judgment what is next like to befall us."

Anno 1639.

Id. p. 250.

Whilst Wentworth thus advised the King to maintain to the utmost his assumed prerogatives, he was not wanting in his efforts to second these pretensions with a competent force. By means of the standing army, he had made himself absolute master over Ireland, and had drawn down a body of men towards the sea-coast opposite to Scotland, which prevented a junction between the covenanters in that country and the Scotch Presbyterians settled in Ireland. By the terrors of the same army, he imposed an arbitrary oath on that people; viz. "That they would maintain the King's power and authority, never take arms against it, nor protest against any of the royal commands, but submit themselves with all due obedience; that they would not enter into any covenant, oath, or bond, without his majesty's sovereign and regal authority; and that they renounced and abjured all covenants, oaths, and bonds whatsoever, contrary to what they had in that oath sworn, promised, and professed."

Arbitrary  
oaths im-  
posed in Ire-  
land and  
England.  
Id. p. 354.

The King approved highly of this act of power, and imposed the same oath on the Scots residing in England: he found them a more refractory body, for many submitted to imprisonment rather



Anno 1639. ther than comply with so illegal an injunction. Not only those who did not conform to the worship which had been newly established in Ireland were imprisoned, but the churchwardens were persecuted for not impeaching their fellow-parishioners \*. A well appointed regiment of five hundred men was sent from that country to garrison the town of Carlisle. He had provided three hundred men for the relief of the castle of Dumbarton, furnished the magazines with arms and ammunition for eleven thousand men, and by the vast increase of the King's revenue was enabled to transmit thirty thousand pounds in money, with large quantities of provisions for victualling the frontier-towns. Besides this, a thousand troops were raised in Ireland, and transported over to join the King's troops in the North. The lord-lieutenants of the several counties received orders for levying foot; the trained bands were mustered; and the officers who had gained experience in foreign service were ordered home. By these methods an army was raised, consisting of six thousand horse and twenty thousand foot, besides a squadron of ships with five thousand men on board, under the command of the marquis of Hamilton, who was to land in the Frith of Edinburgh, and endeavor to join the marquis of Huntley, a noted Papist,

Id. p. 298.

\* Archibald Adair, a Scotchman, bishop of Killala, for having refused to persevere one Corbet a Scotch parson, who had written a libel against his countrymen the covenanters, and for having dropped some sentiments in favor of that party, was by Wentworth's directions brought by a pursuivant before the High-commission court at Dublin, and sentenced to be fined, imprisoned, and deprived. He was succeeded by John Maxwell, one of the most hot-headed of the Scotch bishops. *Carte's Life of Ormond*, vol. I. p. 93, & seq.

and a great partisan of the the royal cause, to whom with other noblemen, commissions had been sent, empowering them to raise men for the King; whilst the fleet, under the command of the earl of Northumberland, was to stop the trade of the Scots, and make a diversion for guarding the coast. The earl of Arundel, a man thought to be very inveterate against the Scots, and suspected of Popery, was for these reasons, notwithstanding his total ignorance of military affairs, appointed general of the army. The generalship of the horse was taken from the earl of Essex, to his great discontent, and, through the interest of the queen, given to the earl of Holland. Essex was made lieutenant-general of the army \*. Notwithstanding the necessary preparations which had been made by the covenanters to defend their Liberty, yet they still kept up appearances, and sent a letter to the King with an account of the transactions of the assembly, accompanying it with a petition written in very submissive terms, nevertheless

\* Notwithstanding the enormous sums of money which the King had by various means extorted from his people, yet such was his dissipation, that he had at this time no provision of money to support a war: This appears by the following passage in a letter of the earl of Northumberland to the deputy of Ireland. "The martial preparations here have made a great noise; but I assure your lordship, we are in as ill a posture to invade others as we were a twelvemonth since. The discontents at home do rather increase than lessen. The King's coffers were never emptier than they are at this time; and to us who have the honor to be near about him, no way is yet known how he will find means either to maintain or begin a war, without the help of his people." Northumberland, in a letter to his brother-in-law the earl of Leicester, says, that such was the poverty of the court, that no servant of the King, of what condition soever, could get either wages or pension paid. *Strafford's Letters*, vol. II. p. 267. *Sydney's State Papers*, vol. II. p. 636.



Anno 1639. justifying their proceedings; the legality of which, they said, would appear in the ensuing parliament. At the same time they complained, that their enemies, with an intention to ruin them, had spread reports that they designed to invade England.

The King published two declarations, containing a full narrative of the rise and progress of the tumults in the North; but as they contained high encomiums of the discipline introduced into the church of England, with severe censures on the deformity of the Scotch worship, assertions against the covenanters, with a justification of the royal conduct, but without bringing any proof that it was conformable to the laws of Scotland, they could only convince those who, like Charles, were bigoted to Laud's new model of church discipline, and who believed, with their prince, that infallibility was attached to sovereignty. At the end of the declaration \*, the King endeavors to convince his English subjects, that the intentions of the covenanters are, under the specious pretext of redressing religious grievances, to invade England, and enrich themselves with the spoils of the inhabitants of South-Britain.

The Scots, on their side, dispersed in England a great number of papers, in which they set

\* One of the paragraphs in what is called the lesser declaration is so true a picture of Charles's sentiments concerning the sacredness of his office, that it is worth inserting. "They have treacherously, said he, induced many of our people to swear to a bond against us; which bond and covenant, or rather conspiracy of theirs, could not be with God, because against us, the Lord's anointed over them. But it was and is a bond and covenant pretended to be with God, that they may with the better countenance do the works of the Devil, such as all treasons and rebellions are."

forth their grievances, and the King's intentions ; disavowed having any purpose to molest the English ; and intimated, that it concerned them, no less than themselves, to withstand the arbitrary power which Charles was grasping at in England as well as in Scotland. On the twenty-seventh of March, the King set out to join his troops at York, in which place he revoked fundry monopolies licences, and commissions, granted by his letters-patent \*. This was intended as a popular

\* This act, intended to conciliate the minds of the exasperated people, was a very injudicious piece of politics, as it gave the public a taste of the advantages they received from the distressed situation of their King, and convinced them of the utility of keeping him in a state of dependance on their good will ; since it was only on occasions when he wanted the assistance of his subjects to maintain his power, that he could be brought to do them justice. The following are some of the monopolies and commissions which were called in, noted here because they have not been yet mentioned in this History. A commission touching scriveners and brokers. A commission for compounding with offenders touching tobacco. A commission for compounding with offenders for transporting butter. A commission for compounding with offenders in the importing and using logwood. A commission to compound with sheriffs, and such as have been sheriffs, for selling their under-sheriffs places. A commission for compounding for destruction of woods in iron-works. A commission for concealments and encroachments within twenty miles of London. A licence to transport sheep-skins and lamb-skins. A commission to take men bound to dress no venison, pheasants, or partridges, in inns, alehouses, &c. A commission touching the use of wine-casks. A commission for licensing brewers. A licence for the sole transporting lamperns. A grant for weighing hay and straw in London and Westminster, and three miles compass. An office of register to the commission for bankrupts in divers counties of the realm. An office or grant for gauging red-herrings. An office or grant for sealing bone-lace. A grant of privilege touching kelp and sea-weed. An office or grant of factory for Scottish merchants. An office or grant for the searching and sealing foreign hops. An office or grant for the sealing buttons. All grants of fines, penalties, and forfeitures, before



Anno 1639. act, but it was followed by another which was quite the reverse; the imposing on all the chief officers in the army, and the nobles assembled in the camp, by way of test, an oath professing loyalty and obedience to the King, and disclaiming and renouncing the having any intelligence, or holding any correspondence with the rebels. This oath was taken by all the Scots and others in the King's train, excepting the lord Say and the lord Brook, who had the spirit to refuse it, as an unconstitutional exaction: On this refusal they were confined to their houses\*.

The Scots sent addresses to the King at York, in which they desired to be admitted to his presence, and lay their grievances at his feet. They obeyed a proclamation published in Scotland to forbid them to approach within ten miles of the borders of England; and by this judicious behavior, congruous to their professions, they convinced the English that the quarrel was entirely the King's, and that they were called out, not to defend their own property, as the courtiers endeavored to make them believe, but to assist a wicked administration in the most unjustifiable designs, against a people to whom they were in a manner united by the parity of circumstances, and similarity of grievances. If Charles had already

judgment granted, mentioned to be granted, by letters-patent, privy-seals, signets, sign-manual, or otherwise. The several grants of incorporation made unto hatband-makers, lute-string-makers, spectacle-makers, comb-makers, tobacco-pipe-makers, butchers, and horners. *Rushworth*, vol. III. p. 915, & *seq.*

\* The examples of the lord Say and the lord Brook occasioned other lords, who had taken the oath, to make a protestation of what sense they took it in. This protestation was so offensive to the court, that the oath was not offered afterwards. *Strafford's Letters*, vol. II. p. 351.

claimed

claimed a superiority over the laws of England, how fatally might he make those pretensions good when he had reduced Scotland to a conquered province, when he could pour forth armies of discipline slaves to feed on the pastures of those who should venture to oppose him in the rest of his dominions? It was in this view, and in these circumstances only, that the Scots were to be dreaded by their Southern neighbors. On the contrary, whilst they maintained a free and independent spirit, their generous example and assistance might encourage England to pursue the glorious track, and recover, by the way of arms, her lost Laws and Liberties. Thus argued the chief officers in the English army.

Charles, who was sanguine in all things which concerned his authority, imagined the Scots obeyed him through fear, and detached the earl of Holland, with three thousand foot and one thousand horse, to march into Scotland by the way of Kelfo; the earl of Essex had been sent before to take possession of Berwick. Lesley advanced, at the head of four or five thousand men, to meet Holland: Favored by his situation, he drew up his forces in a manner which made them appear double their real number, and Holland received intelligence that there were yet twenty-four thousand behind. On this he dispatched orders to stop the march of his foot; and returning back, spread through the whole camp the alarm of the enemy's great force. On the retreat of Holland, the Scots, instead of advancing, modestly drew back, and sent letters to each of the English generals, assuring them, that they had not the least thoughts of entering into a war against England, their only intent being to defend their Rights and Liberties till they might have access to his ma-

The King's  
forces re-  
treat before  
the Scots.



Anno 1639. jesty to expose their complaints to him. Soon after this, the Scots sent the earl of Dumfermling with a petition to the King, entreating him to appoint commissioners to negotiate a peace. This was seconded by the voluntary advice of almost all the nobility who surrounded the camp; and Charles was in a manner obliged, contrary to those schemes of conquest he had projected, to enter into treaty with the Scots, and countermand the orders he had sent to Hamilton to do what mischief he could to the rebels\*: Hamilton has been much condemned by the violent royalists and prelatists for the moderate part he acted in the execution of his orders against the Scots. This nobleman, though Charles's minion, and fattened with the oppressions of the people†, had not yet arrived to the profligate selfishness of a Wentworth. He could not look without horror on the prospect of his country conquered by Charles, and taking the law from a triumvirate‡, with whose arbitrary principles he was thoroughly acquainted. Full of these apprehensions, he was far from being in a hurry to perform the violent commands of his master, and always represented the state of the covenanters in a very formidable light, but particularly when sent down with a force, which, many authors are of opinion, might have brought the mal-contents to any terms of submission; it was from these re-

\* He wrote to Hamilton, that he must now keep upon the defensive, for he was clearly and fully satisfied in his own judgment that what passed in the gallery between them had been too much verified on this occasion; viz. That the nobility and gentry of England would never incline to invade Scotland, and thereby begin an offensive war. *Nelson*, vol.

I. p. 231.

† Many of the oppressive commissions, monopolies, and licences, had been granted to him.

‡ The King, Laud, and Wentworth.

pre-

presentations that he received commands not to Anno 1639.  
act on the offensive, but to amuse the covenanters with the prospect of a treaty, till Scotland should be invaded by the King's army\*; and it was at the time when Holland had received orders to attack the Scots, that he was commanded to commence hostilities. He obeyed so punctually the king's directions to keep on the defensive, that the commission of lieutenancy he sent to the zealous Huntley was so full of these cautions, that Huntley parleyed with the enemy, and was sent prisoner to the castle of Edinburgh for refusing to sign the covenant.

Besides the compunctions which a man of any degree of virtue must have in Hamilton's affecting circumstances, an interesting occasion excited his humane feelings. The covenanters, after the example of the Romans in the same exigencies, sent Hamilton's mother to try her influence over her son: She was a pious woman, and a warm covenanter, and no doubt made use of those strong arguments the subject would admit, to make him forbear from any hostile attempts on his country. Whatever might be his resolutions on entering the Frith, like Coriolanus he could not resist the united solicitations of two parents, nor break through that double tie of filial duty with which he was bound both to his country and the fair negociator. In this situation of mind

\* After Hamilton had entered the Frith, he received a proclamation from Charles, offering pardon to the rebels who should lay down their arms, with orders to persecute all with fire and sword who should refuse. By Hamilton's representations, these orders were countermanded, and directions given to keep on the defensive till the King should invade Scotland with his army. *Memoirs of the Duke of Hamilton*, p. 123.



Anno 1639. he received, no doubt with infinite pleasure, Charles's orders to repair to Berwick, and assist with his advice in the intended treaty. He obeyed this command with such alacrity, that the earl of Airly, and Aboyne, Huntley's son, who had taken up arms in the North, were sacrificed by his abrupt departure.

The King insisted, before the negociation was entered on, that the proclamation, which the covenanters would not suffer to be read at Edinburgh, should be published at the head of the Scotch army: On this punctilio being complied with, commissioners were named for the treaty. On the King's side were the earls of Arundel, Essex, Holland, Salisbury, Berkshire, and secretary Cook; on that of the Scots, the earls of Rothes, Dumfermling, and Loudon, Sir William Douglas (the sheriff of Teviotdale), and two ministers, Johnson and Henderson. When the commissioners had met in the earl of Arundel's tent, and were on the point of entering on the treaty, they were surprised with the sudden appearance of the King, who addressing himself to the Scotch deputies, told them, that understanding they gave out they could not be heard, he was come to hear them in person. This proceeding shocked the commissioners; they concluded that the treaty was never intended by the King to be a fair one, since himself, the sovereign of both people, and a principal party concerned, over-awed by his presence free debate. The earl of Rothes evaded entering into particulars, and said in general, that all they desired was to be secured in their religion and liberties. The earl of Loudon, younger than Rothes, and full of ardor, was entering into an harangue; but he was interrupted by Charles in the following high

strain: "Sir, I will not admit of any of your Anno 1639.  
excuses for your by-past actions; but if you come to sue for grace, set down your desires particularly in writing, and you shall receive your answer." On this, the Scotch deputies set down the following demands, with constitutional reasons and grounds for them: "That the acts of the late assembly at Glasgow should be ratified in the ensuing parliament; that all matters ecclesiastical should be determined by the assemblies of the kirk, and matters civil by parliament; that his majesty's ships, and forces by land, be recalled; that all persons, ships, and goods, arrested, be restored; and that all excommunicated persons, incendiaries, and informers against the kingdom, who had caused these commotions for their own private ends, might be given up, to suffer their deserved censure and punishment."

The King was now in the utmost perplexity: He had gone too far to retreat without giving great distaste to the English, who seemed extremely desirous that the Scots should be satisfied in all their reasonable demands. The demands they had made he did not chuse to grant, yet he could not deny but they were consonant to the principles of their constitution. After he had published the horrible rebellion of the Scots, after having levied a powerful army and fitted out a fleet to defend England against their attack, these reputed rebels, these barbarous robbers and invaders, in a pacific manner fling themselves at his feet, and implore leave to enjoy their civil and religious rights\*, and that those incendiaries

\* In the course of the negociation, the Scots told the King, that if he would give them leave to enjoy their religion and their laws, they would, at their own expence, transport their army to assist in the recovery of the Palatinate—a memorable



Anno 1639. who had endeavored to set two neighbor-kingdoms, united under one sovereign, at variance, might be tried by the laws of their country, and receive the punishment they deserved. The reasonableness of these desires could not be disputed; were they peremptorily refused, it would fully convince the public how grossly they had been abused by Charles's representation, and that the Scots had more reason for their opposition than he chose to allow. Pacification. Hampered with these difficulties, he concluded a sudden pacification, without other than general stipulations: That the King should withdraw his fleet and army; the Scots dismiss their forces; the King's forts be restored to him; that there should be no meetings among his subjects but such as were warranted by act of parliament; and that a general assembly and parliament should be immediately summoned to compose all differences.

The King's answers to the demands of the Scots were so ambiguous and equivocal, that it appeared plainly both sides eagerly embraced an opportunity to get out of their present situation, and avoid coming to extremities. It is not to be supposed that the Scots would have been content with general stipulations, had they not found the King, contrary to their expectation, accompanied with an army of twenty-two thousand men. They had imagined that the general discontent of the English nation would have rendered it impossible for him to bring any considerable force against them: To their great astonishment they found themselves deceived\*; and moreover, their trade morable circumstance, unnoticed by historians. *Sydney's State Papers*, vol. II. p. 602.

\* It was generally believed in England, that the nobility would have refused to attend the King in his expedition against the Scots. *Sydney's State Papers*, vol. II. p. 591.

was

was entirely stopped by the King's fleet. In these circumstances the Scotch deputies thought it expedient to accept of terms, expressed in a manner which would bear a very favorable interpretation for them, when a proper opportunity offered to discuss the point. The King, though his army was infinitely superior to that of the Scots, was not without suspicions that they might have a purpose to betray him; if not, it was a very doubtful point whether they would venture their lives in his quarrel; and the loss of a battle might be the loss of his three kingdoms. He therefore did not hesitate to promise, that the Scots should enjoy their religion and liberties according to the ancient laws of that kingdom, determining to construe these terms in a sense which should do no injury to his pretensions.

When the deputies returned to their camp, their principals were much disappointed to find that in the stipulations no mention was made of the abolition of episcopacy, nor acknowledgment of the Glasgow-assembly. On this discontent, the deputies drew up a paper containing certain qualifications, which they asserted ought to have the force of positive stipulations. Whether these were inferences drawn from Charles's ambiguous expressions, or whether they were positively mentioned in the course of the treaty, is uncertain; since Clarendon, a cotemporary historian, a professed panegyrist of Charles, and a violent enemy of the Scots, observes, that what passed in the treaty before signing the articles was verbal, very little material being committed to writing, and that no two who had been present agreed in the same relation of what was said and done. The same author farther acknowledges, that though every body disavowed the contents of the paper  
the

Clarendon.  
vol. I. p 98.  
& seq.



Anno 1639. the Scots published, yet nobody would undertake to publish a copy in contradiction to it.

Sanderfon,  
p. 277.

The Scots, on the encouragement they had met with in their intercourse with the English noblemen, entered a public protestation, that they did not intend to vacate any of the proceedings of the late general assembly at Glasgow, by which prelacy was abolished, and the bishops excommunicated; and declared, that the acts of the approaching session of the college of justice should be null, because it was appointed without a legal notice, to their great prejudice. Charles's pride was hurt by not having been able to chastise the Scots, or to have reduced them to submissive acknowledgments; and soon repented having concluded on terms he thought much too honorable for rebels\*. These resentments, on his return to London, were much inflamed by the

\* He had determined to be present at the general assembly and parliament, which, by the terms of the pacification, were to be held in Scotland. He flattered himself, that the Scots would have been unable to withstand the beams of majesty, and that he should have influence enough, by his presence, to get episcopacy established, and the ecclesiastical canons received. The conduct of the Scots, and the persuasions of Wentworth, made him return to London to take other counsels; Wentworth still flattering him with the hopes, that England and Ireland would, if rightly managed, furnish him with an assistance sufficient to oblige the Scots to conform to his will. "Nothing, says he, ought to be yielded to them, which, by precedent, may encourage the English to contest your royal commands, or the laws already established." He farther advised the King to keep strong garrisons in Berwick and Carlisle, to perfect the fortifications of Leith, and, if possible, to furnish it with a large body of men approved for their loyalty to his service. "As for myself, said he, I shall use all diligence in taking the oath of the Scots, to allay the positive demands your majesty may meet with in the next assembly of covenanters, when they find all are not minded to dance after their pipe." *Strafford's Letters*, vol. II. p. 362. 372. *Nelson*, vol. I. p. 240, & seq.

queen

queen and Laud: The queen upbraided him Anno 1659. with cowardice, for having lost the opportunity of crushing rebellion in its bud, and, by an example of vengeance on the Scots, deterred others from attempting to oppose royal authority. Laud was quite furious in his rage, and stigmatized all those who had any hand in the pacification. The army was disbanded with marks of displeasure; Arundel, Salisbury, and Pembroke, were treated coldly; Holland, though supported by the queen, could hardly maintain a footing in the court; and Essex, who had obeyed every direction which had been given him with the utmost punctuality, and whose behavior in this business is commended by the courtiers, was, notwithstanding, discharged in the croud, without ceremony, or any ordinary civility paid him; and some time after refused the command of the forest of Needwood, a suit he had made with earnestness, because the forest was contiguous to his estate.

Secretary Cook, that old drudge of the court, and tool of every administration, was made the sacrifice to appease the queen's anger and the King's chagrin: Though near fourscore years of age, he was turned out of his office, on pretence that he inserted something in the treaty which he ought not to have done. This disgrace put on the old man was much against Wentworth's inclination, whose creature Cook had ever professed himself: Moreover, the deputy was farther mortified by Vane's being appointed to the secretary's office, a man whom he utterly detested, whose advancement he had sometime stopped, and for whom the queen and the marquis of Hamilton were fain to exert all their interest.

The King next vented his displeasure on the paper published by the Scots, alleged to be the grounds



Anno 1639. grounds and substance of the treaty : It was ordered to be burnt, and a proclamation was issued, commanding all persons who had any copies to deliver them to the justices of peace\*. This gave such a general alarm to the Scots, that though the King had disbanded his troops without reserve, they took such precautions in dismissing their forces as made it easy to draw them together again, and continued the authority to their Tables, alleging it was necessary they should act till all danger was blown over.

From the first signing the pacification, Charles had expressed uneasiness concerning what might be agitated in the approaching general assembly and parliament in Scotland. He wanted to gain over some of the heads of the popular party; and for this purpose summoned fourteen of the covenanting lords to attend him at Berwick, to consult on the affairs of their country : The Scots apprehended treachery, and would not permit above three of their chiefs to obey the mandate ; these were Montrose, Loudon, and Lothian. The two last resisted all the temptations they met with in this interview ; but Montrose, a young, giddy, hot-headed nobleman, of no fixed principles, whose resentment, on some mortifications received from the stiff formal carriage of Charles, had been his only inducement to enter into the opposition, was immediately gained over by the affected smiles of a court, and soon convinced his

\* Guthrie the historian observes, that Charles was so little cured of his execrable notions of government by the difficulties he had met with from the Scots, that he minuted this order in the council-book by the name of an Act of State, a term introduced by him, and which implied that it ought to have the force of an act of parliament. *Guthrie*, vol. III. p. 968.

party that he was not a man in whom they could place any confidence. Anno 1639.

During the interval of peace, an incident happened which equally alarmed the subjects of England and Scotland. Cardinal Richlieu had concerted measures with the prince of Orange to make a vigorous attack on the dominions of the King of Spain. The Dutch, with a French subsidy, were enabled to fit out a very large fleet to go against Antwerp, whilst France undertook to besiege St. Omer's. The court of Spain having intelligence of the intentions of these powers, fitted out a squadron consisting of fifty ships, with twelve thousand foot on board, which was to join another squadron lying in the port of Dunkirk. The vigilant Richlieu gave advice of this armament to the prince of Orange, who received intelligence from a spy, chief clerk to the government at Bruffels, that the Spanish general, Antonio Doguendo, was instructed to put himself under the protection of the English fleet, and to land his men on the coast of Flanders. In the straits between Dover and Calais, the Spanish fleet was met by Van Tromp, the Dutch admiral, who, with a very inferior force, engaged them, and forced them into the Downs. The prince of Orange seized the opportunity of revenging the insults his country had lately received from Charles: He sent the Dutch admiral, Van Tromp, a strong reinforcement, with orders to pursue and fight the enemy, though sheltered under the protection of England. Van Tromp signified to the English admiral, that if he took part with the Spaniards his orders were to fight both fleets. In vain did the Spaniards demand the assistance they had sought from their professed friend the king of England. Charles's fleet,

Lettresd'Etat, ed  
Lond. 1743,  
tome I.  
p. 12, & seq.

Id. p. 39,  
& seq.

Burchett's  
Naval Hist.



Anno 1639. notwithstanding the heavy tax he had exacted on the pretence of shipping, was in very bad order, nor could he be certain of the obedience of the sailors, who, with the rest of his subjects, were impressed with a notion that the Spaniards were come to assist him in his schemes of government, and to subdue all opposition to the tyranny of priesthood. The Spanish fleet was ill provided, and though consisting of sixty-seven ships, was much inferior in number to the Dutch, whose mighty force was no less than an hundred large vessels. In these distressing circumstances, Charles endeavored to maintain the appearance of impartiality, and sent orders to Sir John Pennington, who lay in the Downs with thirty-four men of war, to join that fleet which should be first attacked. At the same time, he advised the Spaniards to slip away with the first fair wind, for he could not be answerable for the success of an engagement if they were attacked by the Dutch. Charles's scheme was frustrated by Van Tromp, who began the attack on pretence that the Spaniards had violated their privilege of protection, by killing a seaman on board his own barge. This circumstance furnished Pennington with an excuse to keep the desired neutrality. The Spaniards, who had found means to run over twelve of their ships to Dunkirk, were hemmed in on all sides by the Dutch, who forced them to run twenty-three vessels on shore, seven of which were destroyed; of the rest of the fleet, sixteen ships were taken, two burnt, and fourteen lost near Bulloign and Calais; the remaining number of the twenty-three forced on shore, after having been deserted by the Spaniards, were manned by the English, and delivered to their owners. In this complete victory, the Dutch lost but ten ships:

Naval engagement in the Downs.

ships: And thus the naval armament of Spain, to the great joy of the English subjects, who had conceived an inexpressible terror at their first appearance, met with an irrecoverable blow, though sheltered in a manner in the very arms of their secret ally the king of England \*. Charles complained loudly of this insult, and made use of it as an argument to exact with redoubled severity the tax of ship-money.

The marquis of Hamilton, who found that Charles did not intend to be sincere in his dealings with the Scots, and that he was determined against the total abolition of episcopacy, the only concession which could content the covenanters, declined acting again as high-commissioner. On his refusal, the earl of Traquaire was invested with that office. Traquaire's instructions were very minutely drawn up; among other articles were the following concerning bishops: "For the better facilitating our other services, and the more peaceable and plausible progress in all businesses recommended to you, we allow you, at any time you shall find most convenient after opening the assembly, to declare, that notwithstanding our own inclination, or any other considerations, we are contented, for our peoples' full satisfaction, to remit episcopacy and the estates of bishops to the freedom of the assembly; but so as no respect be had to the determination of the point in the last assembly. But in giving way to the abolishing episcopacy, be careful that it may be

\* Northumberland writes to the earl of Leicester, that his majesty's designs were a little to be wondered at, that he should endanger the receiving an affront, and expose his ships to much hazard, rather than command both the Spanish and Holland fleets out of the Downs. *Sydney's State Papers*, vol. II. p. 612.



Anno 1639. done without the appearing of any warrant from the bishops; and if any offer to appear for them, you are to enquire for their warrant, and carry the dispute so as the conclusion seem not to be made in prejudice of episcopacy as unlawful, but only in satisfaction to the people, for settling the present disorders, and such other reasons of state; but herein you must be careful that our intentions appear not to any."

Diffimula-  
tion of  
Charles.

On the perusal of these articles, an unobserving reader would imagine, that Charles intended to leave off trifling, and answer to the full the expectations and wishes of his Scotch subjects. This was far from his intention: The appearance of a concession, contrary to the dictates of his conscience, and his principles of government, was a mere subterfuge, and never intended but to deceive. At the same time when these instructions were given to Traquaire, a letter was sent to the bishops, with directions to give in to the commissioner a protestation against the assembly and parliament, not to be read or argued in the assembly, "But, says the letter, to be represented to us by our commissioner, which we promise to take so into consideration as becometh a prince sensible of his own interest and honor, joined with the equity of your desires. And you may rest secure, that though perhaps we may give way for the present to that which will be prejudicial both to the church and our own government, yet we shall not leave thinking in time how to remedy both: We do hereby assure you, that it shall be still one of our chiefest studies how to rectify and establish the government of that church aright, and to repair your losses, which we desire you to rest satisfied with."

Charles imagined that a protestation from the  
8 bishops

bishops would affect both the conclusions of the Anno 1639. assembly and parliament: For as bishops, in his opinion, had a right which they could never be deprived of but by their own consent, so the determinations of a parliament, from which they were forcibly excluded, would of course be invalid; and thus, when a proper opportunity presented, its acts might be declared vacate, though they had obtained the royal assent\*.

The Scots either had very good intelligence of all the schemes plotted at court, or seem to have had a thorough knowledge of the King's disposition and temper: Though after the pacification they quitted the form of an army, yet they kept together in bodies, and retained all their officers in pay; they carried on their fortifications, and bought up large quantities of arms in foreign states. Thus prepared, when the synod met, they declared all those assemblies null which had been condemned in the last meeting, and passed an act, which was ratified by the commissioner, with a promise that he would ratify the same in parliament, imputing the troubles of the kingdom to the following causes: The liturgy, the canons, consecration, ordination, the five articles of Perth, the change of the church-government into episcopacy, the introduction of ecclesiastics into civil offices, and the interruption of general assemblies. The covenant was commanded to be subscribed, with a new explanation, and another assembly was appointed to meet at Aberdeen, in the month of July in the following year†.

\* It was the earl of Traquair who suggested this to the King. *Memoirs of the Duke of Hamilton*, p. 149.

† During the sitting of this assembly, the bishops of Dunkeld and the Orkneys abjured episcopacy, as having no foundation in the word of God, and which had had pernicious



Anno 1639. On the new explanation of the covenant, it was taken by the commissioner and the rest of the council \*. Though the explanation was favorable to the royal authority, and was a great point gained, as matters then stood, yet Traquaire incurred the resentment of his master for a compliance which shocked both his pride and his principles †.

The conduct of the parliament was no less animated than that of the general assembly. The covenanting party shone forth in the meridian of their glory; and such was the influence of the spirit of Liberty, that these Northern chiefs, the inhabitants of an hitherto-uncivilized country, had conducted their opposition to ty-

ous consequences in many parts of Christendom, and particularly in Scotland. *Monteth*, p. 50, & seq.

\* Explanation of the covenant. "We do swear not only our mutual concurrence and assistance for the cause of religion, and to the utmost of our power, with our means and lives, to stand to the defence of our dread sovereign and his authority in the preservation and defence of the said religion, liberties, and laws of this kirk and kingdom, but also in every cause which may concern his majesty's honor, we shall, according to the laws of this kingdom, and duty of good subjects, concur with our friends and followers, in quiet manner or in arms, as we shall be required of his majesty's council, or any having his authority." The following clause was prefixed to the names of the subscribers; "We subscribe this covenant according to the explanation it hath received from the general assembly; that is, as declaring the five articles of Perth, the government of the church by bishops, and the bestowing civil places on churchmen, to be unlawful in this church." Traquaire avowed, that he signed the covenant as a subject, not as his majesty's high-commissioner. *Nalson*, vol. I. p. 253. *Rapin*, vol. X. p. 387. *Monteth*, p. 50.

† Part of Traquaire's instructions were, to have an especial care that the bond should be the same as was in James's time, and that he gave no assent to the farther interpretation of it than what might stand with the King's intentions, well known to him.

ranny with a regularity and judgment which Anno 1639. would have graced the councils of an established commonwealth. And when by wise and vigorous measures they had extorted from their unwilling sovereign a parliament, to settle the civil and religious rights of the nation, they exerted talents which rivalled the reputation of Grecian legislators. The scheme of the party was to rectify and fix the constitution of Scotland, till now inconsistent, precarious, and unsettled; and this sagacious parliament, composed of the chief members of the opposition, seem in their purposed model to have had an eye to some of the purest and the firmest fundamentals in the system of the English monarchy. Their first attempt was to abolish the lords of the articles, and thus reinstate the parliament in that authority which had, by means of this institution, been entirely engrossed by the crown. They presented to the high-commissioner an act, declaring, that nothing done, or to be done, in parliament, should be valid, except the form of electing articles heretofore observed was altered, and every estate allowed to chuse their own articles \*. The act of the general assembly concerning episcopacy was Rushworth, vol. III. p. 1025, & seq. ratified; and on the commissioners demanding, Whitlock, p. 30. that the third estate should be represented by fourteen lay-abbots of the King's chusing, it was rejected with spirit; and a vote passed, that the third estate should be completed by small barons, to be elected by the commonalty.

The next business the parliament undertook was to abridge the power of the crown in the Rushworth, vol. III. p. 1003, & seq. p. 1027, & seq.

\* They for this time gave way to the commissioners, chusing eight noblemen in the place of the bishops; but they voted it should be no example for the future. *Whitlock*, p. 29, & seq.



Anno 1639. point of coin, a privilege which rendered property precarious and dependent on the monarch. To secure the subject from this grievance, they passed an act, ordaining that the coin should not be meddled with but by advice in parliament. The King having made two Englishmen governors of the castles of Edinburgh and Dumbarton, the Scots took the alarm, and, that they might not be bridled with foreign garrisons, presented an act, ordaining that no strangers should be intrusted with the keeping any castles, nor other person put in them, but by advice of the estates. The next act ordained, that no patent of honor should be granted to any stranger, but such as had a competency of land-rent in Scotland: This was very important to the security of the country, since, without this restriction, Charles might have filled the parliament with Englishmen, the creatures of his court. The sixth act ordained, that no commission of justiciary or lieutenancy should be granted but for a limited time. And the seventh protested against the precedency of the lord-treasurer and lord-privy-seal, because not warranted by law\*. There were other salutary acts passed of the same nature; such as settling the book of rates by advice of parliament; limiting the power of the Exchequer; demanding that the council should be censurable by parliament; an act touching proxies and ward-lands, with a supplication that the authors of the book called "The Large Declaration," in which the Scots had been grossly abused, should be delivered

Rushworth,  
vol. III.  
p. 960.

\* The parliament were so jealous of being treacherously dealt with, that they desired leave to appoint some of their members to sit by the clerk, and see the votes were rightly taken. *Rushworth*, vol. III. p. 1010.

up to the justice of the kingdom\*. Charles receiving intelligence of these proceedings, ordered his commissioner to prorogue the parliament till the second of June 1640; and if he met with opposition, to declare that the members who should continue to sit were guilty of high-treason†.

The parliament drew up a declaration, setting forth the irregularity of these proceedings; that the commissioner had infringed their privileges in many articles, and that the prorogation of the parliament, without their own consent, was contrary to the usage of the kingdom; and that though they were willing to break up, to give the King a proof of their obedience, yet they thought it necessary to leave a committee of each

\* It was penned by Balcanqual, dean of Durham. *Memoirs of the Duke of Hamilton*, p. 116.

† The following directions, which the King wrote to Traquaire on the business of the parliament, furnish a fresh proof of the insincerity of his intentions in regard to the Scots. “As we have formerly written to you, we cannot consent to the rescinding any acts of parliament made in favor of episcopacy; nor do we conceive that our refusal to abolish those acts is contradictory to what we have consented to, or to what we were obliged to. There is less danger in discovering any future intentions of ours, or at the best letting them guess at the same, than if we should permit the rescinding those acts of parliament which our father with so much expence of time and industry established, and which may hereafter be of great use to us. And though it should perhaps cast all loose (as you express), yet we take God to witness, we have permitted them to do many things in this assembly, for establishing of peace, contrary to our judgment. And if, on this point, a rupture happen, we cannot help it; the fault is on their part, which one day they will smart for. We likewise wrote formerly to you, that we thought it not fit at this time that the power of the lords of articles should be refined, and that you are to avoid the same, and to be sure not to consent thereunto.” *Memoirs of the Duke of Hamilton*, p. 158, & seq.

estate



Anno 1639. estate to present a remonstrance to his majesty, and attend his gracious answer.

Rushworth,  
vol. III.  
p. 956. The earls of Dumfermling and Lothian were the persons sent up to present this to the King, and to demand the royal assent to the acts which had passed this parliament. The King refused to give the deputies audience, on pretence that they came without a warrant from his commissioner. When the earl of Traquaire arrived,

Id. p. 1031,  
& seq. he was ordered to report to the English council what had passed in Scotland since the pacification. The council, without being acquainted with the constitution of the kingdom, the legality of the past transactions, the rationality of the claims, precipitately declared, that it was absolutely necessary to reduce the Scots to their duty by the force of arms \*. The committee at Edinburgh, at length, obtained leave to send deputies to justify the conduct of the parliament.

Id. p. 992,  
& seq. These refused to plead before a committee of the council, and alleged that they were sent to the King and not to the council of England, who had no jurisdiction over the Scots. The King at length vouchsafed to give them a personal audience, in the presence of the appointed committee. The earl of Loudon was the mouth of the deputation: He vindicated all which had been done in Scotland, and insisted, in a very decent though determined manner, on the confirmation of the constitutional points. Charles pretended to believe, that the deputies were come to treat with him about concessions: He first asked

Id. p. 1033,  
& seq.

\* The earl of Morton said, that as the King had given the Scots leave to petition in parliament for redress, there was not sufficient ground for war till their reasons were heard. On this the earl of Strafford peremptorily asserted, that there was ground enough for war. *Nelson*, vol. II. p. 82.

them,

them, how he could be sure they were sent by the people they pretended to represent? and then, what power they had to give him satisfaction? The deputies, after shewing their authorities, answered, if what they had to propose was agreeable to law, they were convinced his majesty would be satisfied: Who is to be judge of that, said the King? The law, returned the deputies, is so clear, that there is no need of a judge. Charles, after trifling in this manner, declared, that the deputies were not invested with proper authority to treat about an accommodation; that their application was undutiful; and that enough had been done already to give the Scots satisfaction\*.

Determined on war, he published a declaration to vindicate his own conduct, and accuse the Scots: In this he endeavored to stir up the re-

\* Laud, who was one of the members of the committee, entered into a dispute with the deputies, and alleged, that the King was not obliged to ratify the conclusions of the assembly; the deputies affirmed that he was. In the course of this dispute Laud grew warm, and said, that the clergy of England in their convocation-house did not assume such authority as the general assembly of Scotland. To this the deputies answered with great spirit, that the comparison would not hold; for the convocation-house, which did only consist of prelates, and a part of the clergy, was of a different nature from their general assemblies, where his majesty or his commissioner sat, and where the whole congregations and parishes of the kingdom were represented by their commissioners from presbyteries, so that what was done by them was done by the whole church and kingdom. At this Laud exclaimed, with great heat, "That the convocation-house in England was as eminent a judicature as the general assembly in Scotland; that the clergy and himself had been a long time members of the parliament; and that neither the English nor any reformed church had lay-elders as the Scots had in their assemblies, and he would lose his life before they should have them. *Rushworth*, vol. III. p. 998, & seq.

sent-



Anno 1639.  
King's De-  
claration.  
Rushworth,  
vol. III. p.  
1027, & seq.

Memoirs of  
Hamilton,  
p. 160.

resentment of the English against them, on the objection made to the entrusting important charges in the hands of strangers; and attempted to shew that all their demands were not only illegal but absurd. His arguments on this head are puerile, and can only convince those who, like himself, idolized monarchical power. Traquaire, who was hated by the prelates on a suspicion that he had betrayed them\*, and who had incurred the King's resentment for the moderation with which he had behaved in the character of his commissioner†, found that he could no otherwise stand his ground but by humoring the inclination of the court for a war, and inveighing with great animosity against his countrymen. He represented, that they were not to be satisfied; that the circumstances of the King's strength in Scotland was such, that if a better concerted in-

\* It has been said by some authors, that, on the bishops writing to Laud to prevail with the King to have the service-book kept back till the nation was better prepared to receive it, Traquaire, with a design to ruin the bishops, rode post to London, and assured Laud, that there was no danger to be apprehended, and that himself would undertake to carry the business through without any disturbance. The credulous archbishop was so affected with these promises, that he commanded the bishops to proceed in the work at all hazards, and that they should acquaint the earl of Traquaire with all their proceedings. To these commands Laud added, that no bishop, should presume to suffer any fast to be kept on the Lord's Day; and if the canons were not already printed, they should make one on purpose against that unworthy custom. *Rushworth*, vol. II. p. 314.

† Previous to his being entrusted with this office, he had been put under arrest for his too easy giving up the castle of Dalkeith, in which were lodged the Scotch regalia. The prelates had represented his conduct as proceeding either from cowardice or treachery; but he made it appear that the place was indefensible. At the same time this happened, the earl of Roxborough, a staunch friend and creature of the court, was confined because his son had joined the covenanters.

vasion

vasion was set on foot, Ruthwen, the governor of the castle of Edinburgh, would soon teach them their duty \*. To furnish the King with a pretext for hostile resolutions, he put into his hands a letter he had picked up, written by seven of the covenanting lords to the king of France, desiring his protection and assistance. This letter †, on the pacification, had been reserved, and never sent.

To the astonishment of the English court, now, for the first time, was discovered the real source from whence the Scots had obtained their assistance of men and money. Charles had attributed it to the Dutch, or to the party of Calvinists spread over Europe: it never once entered his

\* A little time after this, a great part of the walls of Edinburgh-castle, mounted with cannon, fell down of themselves, and the covenanters very prudently prevented their being rebuilt.

† It was as follows:

“ Sir, your majesty being the refuge and sanctuary of afflicted princes and states, we have found it necessary to send this gentleman, Mr. Colvill, to represent unto your majesty the candor and ingenuity, as well of our actions and proceedings, as of our intentions; which we desire to be engraved and written to the whole world, with a beam of the sun, as well as to your majesty. We therefore most humbly beseech you, Sir, to give faith and credit to him, and to all which he shall say on our part touching us and our affairs, being most assured, Sir, of an assistance equal to your wonted clemency, heretofore and so often shewn to this nation; which will not yield the glory to any other whatsoever to be eternally, Sir, your majesty's most humble, most obedient, and most affectionate servants, Rothes, Montrose, Lesley, Marr, Montgomery, Loudon, Forrester.”

Bishop Burnet says, that this letter was proposed and dictated by the earl of Montrose; that when it was brought to the earl of Lauderdale to sign, he objected that it was written in false French; and that on this objection it was laid aside for some time. *Burnet's History of His Own Times*, vol. I. p. 30.

head



Anno 1639. head that the reformed, whom he, a Protestant prince, had treated with the utmost rigor, at the same time when he was courting the triple crown at Rome, could receive encouragement from a prelate of the Romish church; and so much was he impressed with his father's notion of a sympathetic amity among sovereigns, that he imagined brother-monarchs bound by every tie moral and political to assist each other against rebellious subjects. It was the part he had always acted, when he followed the impulse of his own inclinations in the quarrel between the king of France and the Protestants of that kingdom. The false light in which he viewed these things, rendered him obnoxious to the revengeful spirit of a vindictive priest.

To secure the success of the scheme which Richlieu, with the states, had formed on the Austrian Netherlands, it was necessary at least to obtain a neutrality from the king of England. To bring about this business, d'Estrade was sent by the cardinal to the English court, with instructions to offer the King his own terms. Richlieu (who had been long on an ill footing with the queen of England, through the means of madam de Chevreuse, who had represented him as a devil in the part he had acted against Mary de Medicis, the queen-mother of France) gave d'Estrade particular directions to make his first applications to Henrietta, to endeavor to remove the prejudice she had taken against him, and to make professions on his part of a passion to serve her, and to destroy by his actions the ill offices which had been done him by madam de Chevreuse. Henrietta received the cardinal's civilities with all the haughtiness which could be expected from her inexperience, pride,

Lettres  
d'Estrade,  
ed. Lond.  
1743, tome  
I. p. I, &  
seq.

and passionate temper: she not only silenced d'Estrade on his offering to enter on a vindication of Richlieu's conduct, but moreover told him, that she wanted nothing of that minister, and was determined never to have any friendship for him. The answer which Charles made to the proposal of the ambassador was as open and sincere as was that of the queen: On d'Estrade's assuring him, that if he would comply on the subject of the desired neutrality, the cardinal would prevail with the French king to send him assistance against such of his subjects as might have rebellious views, he answered, that he had no occasion of foreign aid to reduce his subjects; and should be so far from observing a neutrality, that he was determined to have a fleet in the Downs with fifteen thousand troops on board, ready to land in Flanders in case of need. Richlieu received the intelligence of the manner in which his offers and civilities had been refused with all that indignant spirit of revenge which might have been expected from a man conscious of his power, abilities, and consequence.

This happened at the beginning of the breaking out of the commotions in Scotland. D'Estrade received immediate orders to withdraw into Holland, to persuade the prince of Orange to attack Antwerp, with intelligence that Richlieu would send his almoner, a Scotchman, to Edinburgh, to encourage the Scots in their undertakings against Charles, and to promise them the assistance of the king of France. "It was proper and advantageous, wrote he in his dispatches to d'Estrade, to discover the sentiments of the king and queen of England: if they had had the address to conceal them, they would have perplexed us greatly. But before the end of the twelve-



Anno 1639. twelvemonth they shall repent their having refused the offers which you made them from his majesty. You could not have spoken better, nor could you have better answered the king of England on my account: he shall soon know that I am not despicable."

All Charles's panegyrists, and many candid authors, who have been willing to add light to a character almost totally shaded with prejudice and vice, have taken the opportunity, on this part of his conduct, to bestow infinite praises on what they term patriotism and heroism. They suppose he had at length acquired a just idea of national interest; and give him great merit on his refusing to be biassed by the proffers made him of assistance against the rising spirit of his subjects. If the motives assigned by these authors had been the real ones which actuated him on this important occasion, nothing would be more unjust than to deprive him of the praises due to a resolution at once spirited and disinterested: Charles had not at this time any idea of wanting a foreign assistance; and it must be remembered, that the Scotch tumults were at first held very contemptible by the English court; that the King was naturally sanguine in all contests which concerned the royal authority, which he thought could not but meet with support from every individual who had sense or honesty; besides, he was entirely governed in this affair by Henrietta his wife, who mortally hated Richlieu, and had, with her mother Mary of Medicis\*, who was at

\* Her intrigues in France had made that country no place of abode for her. She fled to Brussels, where she was much caressed by the cardinal infant; but she was so hated by the people, that for fear of violence to her person she removed to Holland, from whence she was invited into England by the queen

this time entertained at the English court, espoused the Spanish faction. The duchess of Chevreuse had been obliged to fly her country for intriguing with the Spaniards; Henrietta invited her over into England\*, where she was sumptuously entertained, and a large allowance appointed her. Father Orleans says, that many of the French mal-contents took refuge in England; that it was not questioned in France but that so many disgusted women would conspire to unite the King of England with the house of Austria, whose ministers had daily conferences with the queen, and the King himself was present. Charles, through female influence, was so deeply engaged with that court†, that had he

Anno 1639.  
Strafford's  
Letters,  
vol. II. p.  
115. 148.  
156.

Orleans,  
P. 44.

queen her daughter: where she arrived in October 1638, with a great train of Popish attendants, and was conducted in high state through the streets of London. The public expressed great dissatisfaction at this event.

The king of France expostulated with the English ambassador on the admittance of the queen-mother into England. He said, that she was altogether Spanish, and would try all means to hinder a conjunction between the courts of France and England. Lewis farther complained, that all the Roman-Catholics in England were Spanish; and argued, that the expence of keeping the queen-mother in England, if otherwise employed, might recover the Palatinate; and that she had in her train people who would cause disorders in the court of England. *Whitlock*, p. 28. *Echard*, fol. ed. 1720, p. 467. *Sydney's State Papers*, vol. II. p. 461. 518. 530. 576.

\* Henrietta was so fond of this intriguing woman, that she permitted her to sit in her presence. This was a privilege which it seems was denied not only to the French ambassadress, but to the women of the first quality in England. This important point was formally debated on by the English ambassador and the court of France. *Sydney's State Papers*.

† Charles was at this time listening to proposals of a cross-marriage between two of his children and a son and daughter of the king of Spain. The treaty was carried on by madam de Chevreuse. *Sydney's State Papers*, vol. II. p. 636.



Anno 1639. had the inclination, it would have been impossible for him to have acted the part of neutrality which was demanded of him by the French king.

Memoirs of  
Hamilton,  
p. 160, & seq.

On the discovery of the letter, Colvil and the earl of Loudon were sent to the Tower. Loudon vindicated himself on the following plea: That the letter was written before the pacification, and for that reason was buried in oblivion. He offered to be tried by his peers in Scotland, from which place, he said, he came on his majesty's warrant, and ought to be returned back again a freeman. It is reported, that Charles was much inclined to deprive him of his life; but was dissuaded from this violent measure by the marquis of Hamilton, who was sensible of the mischief the King would bring on himself by such a procedure \*. The enraged party at court, being

Anno 1640.

\* The following is the story told by Burnet, from a paper written by Dr. White Kennet, bishop of Peterborough. Charles, in a fit of passion, sent a warrant to Sir William Balfour, lieutenant of the Tower, to execute the prisoner Loudon for high-treason. Balfour, at the desire of Loudon, consulted with the marquis of Hamilton on what was to be done in the present exigence. Balfour and Hamilton went immediately to the King, whom they found in bed: Balfour fell on his knees, and used many arguments to persuade the King to suspend the execution of a warrant which could not be legally proceeded on. The King said, the warrant was his, and it should be obeyed. On this the marquis of Hamilton entered the chamber, and told the King, that if he was so determined, himself would ride post for Scotland, and tell his countrymen, that he had no hand in it. The King was so struck with this peremptory declaration that he tore the warrant.

Before the conclusion of the year 1639, the prince-palatine, who, having raised a small army in Holland, was beat by Hatzfeld, one of the emperor's generals, in Westphalia, made another visit to his uncle the king of England, to solicit a supply. Charles was not in a condition to grant the request, and sent the young prince incognito through France to the allied.

determined at all hazards to reduce the Scots to obedience by the force of arms, began to take measures to raise a numerous army: The counties were taxed for their quotas, and ship-money, with the arrears due, was exacted with the utmost rigor. All this being very insufficient to supply the exigencies of a war, Wentworth, lately created earl of Strafford \*, who had been sent for over on this pressing occasion, together with Laud and Hamilton, the three men whom Charles consulted on important points, encouraged by an opinion that a general aversion and indignation against the Scots raged through the whole kingdom; and depending much on the circumstance of the intercepted letter, advised the King to recede from his determined plan; and once again try the old constitutional expedient of a parliament.

Anno 1640.

Preparations for another war.

When this resolution was told to the council, they gave an universal voice of approbation: but Strafford, whom conscious guilt rendered susceptible of doubts and jealousy, and whose fate was wound up with that of his master's, was determined, if possible, to render him capable of making his own terms, and subscribed twenty thousand pounds as a free loan; the duke of Richmond, a young nobleman of no considerable

allied army, which had promised, on his appearance, to acknowledge him general in the room of duke Barnard Saxe-Weymar, lately deceased: He was discovered at Lyons, and, by an order from the court of France, confined as a prisoner. *Appendix to the Enquiry into Glamorgan's Transactions, p. 15.*

\* He had often solicited this dignity; but Charles, who was slow in granting favors even to his most determined tools, had postponed the indulging his desires till this period, when his appearing with a new lustre in Ireland might render that people the more complying to his demands in this pressing necessity of the crown. *Strafford's Letters.*



Anno 1640.  
Warwick's  
Memoirs,  
p. 144.

parts, gave forty thousand. The example influenced many other great officers in church and state \*, and the king found himself in a condition to proceed with his armament without waiting for a subsidy. Presuming on this unexpected supply, he determined to shew the parliament they were not convened out of necessity, and that he thought himself on a footing to treat them in his usual style. Ship-money was continued to be levied, although the grand-jury of Northamptonshire had the spirit to present it as illegal †. An unmitigated rigor was used in the ecclesiastical courts ‡. On the death of Coventry §, which happened about this time, the obnoxious Finch was preferred to the great seal, and created baron of Fordich. He began the exercise of his office

\* Whitlock says, that the judges and officers of the courts of justice, ecclesiastical and civil, were assessed by the council according to the quality and profit of their places.

† Sir Christopher Yelverton, high-sheriff of Northamptonshire, having sent to the council a copy of this presentment, was sharply reprimanded, and ordered to do his office on pain of exemplary punishment. *Rapin*, vol. X. p. 398, & seq.

‡ Some tenants of the church of Durham having combined together, and raised money to carry on a prosecution against the dean and chapter for raising their fines exorbitantly, contrary to a decree of the court at York in the time of Elizabeth, they were called before the council, and Grey and Smith, two men who had been the most busy in this affair, were, by a motion of Laud, committed to the Gate-house. Laud said, that the dean and chapter would do well to proceed against the prosecutors in the Star-chamber, and never renew the leases to them or their children; he was confident it was a practice against the church, and that there was a farther design in the business. *Rushworth*, vol. III. p. 1051, & seq.

§ Coventry died with the following document in his mouth, or rather request to the King: That he would take all distastes from the parliament with patience, and not end it with an unkind dissolution.

with calling the judges together, and giving them a charge to promote, in their circuits, the ready chearful payment of ship-money; and had the imprudent presumption to declare, on a demurrer put in to a bill then before him, which had the authority of an order of the lords of the council, but no equity in it, "That whilst he was keeper, no man should be so saucy as to dispute those orders, but that the wisdom of that board should be always ground enough for him to make a decree in Chancery."

Anno 1640.

Clarendon,  
vol. I. p. 58.

The parliament was summoned to meet on the thirteenth of April. The pleasure this news gave to the lovers of Liberty baffles all description: "What, cried they in their mutual congratulations, are our tyrants at length unexpectedly driven into the necessity of calling a parliament, after their use has been so long and so successfully laid aside? and this when our hopes are grown languid; at a time when the remembrance of that august assembly, when the veneration its conduct so justly acquired, is grown faint on the minds of the vulgar?" The exultation of the public began to shew itself on several occasions: The presentment of the Northamptonshire jury against the illegality of ship-money; the spirited exertion of one Bagshaw, a lawyer, reader of the Middle-Temple, who argued against the lawfulness of the seat and jurisdiction of bishops in parliament \*. Notwithstanding these favorable

\* He argued on the statute of the twenty-fifth of Edw. III. and divided his matter into several parts, allotting a case for every day in which he was appointed to read. His arguments being reported to Laud, he was commanded not to proceed. He applied to Finch the lord-keeper, who sent him to Laud, telling him, it was good law, but he could not proceed without a licence. Laud told him, he had fallen on an unfit subject in an unseasonable time, which would stick



Anno 1640.

omens, there was at this time too much leaven of priesthood, and other flagrant prejudices in the nation, for the Puritans, the great opposers of the late tyrannical proceedings, to carry the majority of elections. On this important occasion, therefore, many members were chosen who had too scrupulous a regard for what they called the dignity of the crown and church, to engage heartily with that party in correcting the abuses and reforming the corruptions of either.

Parliament  
in Ireland.Strafford's  
Letters,  
vol. II. p.  
400, & seq.Rushworth,  
vol. III.  
p. 1039.

Previous to the meeting of the English parliament, Strafford was sent over into Ireland, with the title of lord-lieutenant, and the ornament of a blue ribbon, to gain from that easy credulous people a sum of money sufficient to execute the designs which had been concerted between him and his master. A parliament was accordingly called in that kingdom, which answered so well the hopes of the ministry, that they immediately granted four subsidies, expressed a violent zeal for the cause, drew up a declaration containing an acknowledgment of favors and benefits enjoyed under his majesty's happy and gracious government, with a promise for a farther supply to the utmost of their abilities if the King's occasions should require it. This was not only entered in the English council-causes, and copies dispersed abroad, but mentioned at the end of the King's declaration against the Scots, with an intimation that the subjects of England would do well to follow so good an example\*.

by him as long as he lived. He was again commanded silence, on which he went out of town. Forty or fifty gentlemen of the inns of court, to do him honor, and shew their approbation of his intention to instruct his audience, attended him on horseback. *Whitlock, p. 31, & seq.*

\* Such was the subjection in which the Irish parliament was held by the lieutenant, that he procured the following clause

April the thirteenth, the parliament met \*. Anno 1640. Parliament of England.  
 Eager expectation took possession of almost every English breast; nor were the Scots less free from this turbulent affection, seeing that their success or ruin entirely depended on the resolutions of this assembly. After a short preface from the King, the lord-keeper Finch made a long speech Parl. Hist. vol. VIII. p. 397, & seq. to both houses; this performance out-did his usual bombast: He began with highly extolling his master's condescension in calling a parliament.

“ His majesty's kingly resolutions, said he, are seated in the ark of his sacred breast; and it were a presumption of too high a nature for any Uzziah, uncalled, to touch it: Yet his majesty is pleased to lay by the shining beams of majesty, as Phœbus did to Phaeton, that the distance between sovereignty and subjection should not bar you of that filial freedom of access to his person and counsels; only let us beware how, with the son of Clymene, we aim not at the guiding the chariot, as if that were the only testimony of fa- Finch's speech.

clause to be inserted in their declaration: “ And particularly in placing over us so just, wise, and vigilant a governor as, &c. who by his great care and travail of body and mind, sincere and upright administration of justice without partiality, &c.” Wentworth having obtained this clause to be thrust into the declaration of the Irish parliament, boasted much of his interest in that kingdom. “ I have left, wrote he in a letter to secretary Windebank, the Irish people as fully satisfied as can possibly be wished for, notwithstanding the philosophy of some among you in the court, who must needs have it believed, that people are infinitely distasted with the present government, and hating of me; which error I can easily remit unto them, considering that thereby the truth will be more clearly understood unto all, and in conclusion the shame fall unto themselves.” *Carte's Life of Ormond*, vol. I. p. 95. *Strafford's Letters*, vol. II. p. 403.

\* Wren bishop of Ely, one of the most obnoxious prelates in the kingdom, preached before the King on this occasion at Westminster. *Nelson*, vol. I. p. 306.



Anno 1640. therly affection. But let us ever remember, that though the King sometimes lays by the beams and rays of majesty, he never lays by majesty itself." After this introduction, Finch expatiated on the King's goodness in easing the parliament of the trouble of giving advice concerning the business of the nation, and the having for twelve years taken that burthen on himself. He then proceeded to invectives against the Scots, who, he said, designed to introduce an army of foreigners into their country, so that there was an absolute necessity to make preparations for the defence of England. He gave an account of the zeal the Irish parliament had expressed for the King's service, ran out in a high-flown panegyric on the King and his government, on the queen, and the rest of the royal family: He introduced the old topic of tonnage and poundage, which he said the King would graciously accept as a gift from the parliament; and ended with an exhortation to the Commons to grant a liberal supply. After this empty harangue, Charles produced the letter which had been sent by the covenanters to the French king, and informed the house, that he had sent the lord Loudon and Mr. Colvil prisoners to the Tower\*. Finch had told both houses, that in the dispute between the King and the Scots, his majesty would not admit any one to interpose an office of mediation.

\* Finch endeavored to aggravate this imputed crime by insisting much on the trifling circumstance of the superscription of the letter; a style, he said, never written by any Frenchman but to their king. However, the superscription was denied by the parties concerned, who asserted, that it was added, with a view of blackening them, after their enemies had gotten possession of the letter. *Parl. Hist.* vol. VIII. p. 406.

The Commons chose serjeant Glanville for their speaker \*, a man of some abilities, and at this time not very displeasing to any party in either house. In his speech to the throne he expatiated on the excellence of monarchy royal and hereditary, and bestowed great encomiums on the King's government, on his piety, and his other personal virtues. After this incense, he entered on the subject of the prerogative, which, he said, could do no hurt, provided it admitted the temperament of law and justice. He explained what he called the highest prerogative, "The King can do no wrong," a maxim in law which had ever been so absurdly and infamously misrepresented by crown-lawyers. Every unjust command, said he, is made void by this privilege; and therefore, though the King in his person is innocent, the actors of those abuses stand liable and exposed to strict examination and just censure. He then insinuated the necessity of enacting plain statutes, that the subject might be enabled to understand what is expected of him, and what he may call his own. "Were we never so valiant, concluded he, never so wealthy, if love and unity be not among us, what good will our wealth do to ourselves or to your majesty? he who commands a heart in love, he and he only commands assuredly the purse to pay, and the hands to fight."

Anno 1640.  
Serjeant  
Glanville's  
speech.

\* The person who brought the speaker-elect the message to attend the King in the upper house was of no better condition than a quarter-waiter; The necessary ceremony on this occasion was neglected last parliament, and noticed by that assembly as an affront to the house. Glanville commanded the waiter to tell Maxwell, the gentleman-usher of the house of Lords, that it was his duty to have come and brought the message himself. *Journals of the Commons*, vol. II. p. 3.



Anno 1642.

The Commons, according to the custom of several parliaments, previous to their entering on matters of importance, conferred with the Lords concerning the petitioning the King for a fast, with the usual business of settling elections, and determining matters of privilege\*. The first days of the session were spent in reading petitions poured in by several counties in England against ship-money, projects, monopolies, the transactions of the Star-chamber, the High-commission court, and other grievances. The King, who imagined the Commons would be in a flame on the subject of the letter which was written to the French king †, sent them a message by secretary Windebank, enlarging on the affronts and indignities the Scots had, by such an appeal to a foreign prince put on their sovereign. The Commons were at this time so taken up with their own grievances, that they took no notice of what had fallen from secretary Windebank. The debate on the national oppressions was opened by Harbottle Grimstone, member for Essex: “The business which had been recommended to their consideration by his majesty, he said, was a weighty business, and very worthy the advisement of that great council; but there was a case at home of as great a consequence, and so much the more dangerous, because it was home-bred, and ran in the very veins of the body politic: That case was the violation of Magna Charta; itself but a renovation and restitution of the an-

\* It was this session determined, that every member should have privilege for sixteen days before the beginning, and sixteen after the ending, of parliament. *Journals of the Commons*, vol. II. p. 10.

† The Lords had been so complaisant as to vote, that the lord Loudon should be detained a prisoner in the Tower till farther evidence should appear in this affair. *Whitlock*, p. 32.

tient laws of the kingdom; a charter which had been confirmed above thirty times, and in his present majesty's reign more than confirmed by an act declaratory, invested with the title of Petition of Right. What expositions, added he, contrary to that Law of Right, have some men given, to the undermining the Liberty of the subject, with new-invented, subtle distinctions? assuming to themselves a power to make void the laws of the kingdom. The commonwealth hath been massacred, all property and liberty shaken, the church distracted, the gospel and professors of it persecuted, and the whole nation over-run with swarms of projecting canker-worms and caterpillars, the worst of all the Egyptian plagues. As the case stands, I conceive there are two points very considerable in it: the first, what hath been done any way to impeach the liberties of the subject, contrary to the Petition of Right; the second, who have been the authors and causers of it."

The next who spoke after Mr. Grimstone was Sir Benjamin Rudyard, an honest, plain, well-meaning country-gentleman, a man of good sense, but neither of depth of understanding, or knowledge enough in the ways of men, to cope with the vicious politics of a court. He lamented the heavy grievances the nation had sustained in the intermission of parliaments; he asserted, that if parliaments were gone all was gone; and pathetically recommended to the house, to ingratiate themselves by their carriage, that the race of parliaments might not be rooted out. The last member who spoke in this important debate was Mr. Pym, a man in the prime of his age, but old in the service of parliaments; much noted for his abilities, but yet of greater weight with his party



Anno 1640.

party from the steady uncorrupted uniformity of his conduct in the important office of a senator; to the reputation he had acquired in this particular was united a life moral and pious, a religion totally free of the prevailing corruptions of the times: this procured him the respect of all the good and moderate men in the kingdom, and from his reputed knowledge in theology, the house had ever appointed him the manager of all the business which concerned religion. This excellent patriot, in a discourse which held above two hours, but in which there was no word without its weight, enumerated all the oppressions of the times\*.

Pym never harangued in vain: the house came to a resolution, and ordered, that the records and proceedings in the Star-chamber and King's Bench, concerning several members of the house in the last parliament, should be sent for immedi-

\* When Mr. Pym mentioned the long intermission of parliaments, he told the house, that by two statutes, not yet repealed, a parliament ought to be held once a-year. On the subject of imposition, he observed, that impositions were not only multiplied upon merchants goods which were exported out of, and imported into, the kingdom, but that there was a growing mischief in plotting for the imposition of goods not of the produce of England, nor ever brought into it, but which were conveyed from one foreign country to another by English merchants, a course never before heard of. In treating of the grievances of ship-money, he asserted, that though there was a judgment given for it, it was against all former precedents and laws; it was a grievance which had no limits either for time or proportion; and whoever endeavored to defend it must be sensible that both his reputation and conscience lay at stake in the defence. In expatiating on the servile doctrine at this time preached by the clergy, he said, that Dr. Manwaring had for that fault been brought upon his knees the last parliament: "He did not think, that, being brought so low, he would have leaped so soon into a bishopric." *Parl. Hist.* vol. VIII. p. 432, & seq.

ately;

ately; that a select committee be appointed to meet to report their opinion to the house touching the violation of the privilege of parliament, the last day of the last parliaments; that the records, enrolments, judgments, and proceedings in the Exchequer, and all courts whatsoever, concerning ship-money\*, should be sent for.

On the question concerning the behavior of the speaker, the house resolved, that the speaker's refusing to put the question, after a verbal command from his majesty, signified by the speaker to the house, to adjourn, and no adjournment made by the house, is a breach of the privilege of the house. Though the Commons had sat but a few days, yet as they had taken little notice of the business recommended to them by the lord-keeper, Charles grew impatient, and ordered both houses to attend him at Whitehall. Finch, the person whom they had just censured as the violator of their liberties, by the King's directions, acquainted them, that the army was now upon its march; that it cost an hundred thousand pounds *per* month; and that without an immediate supply the honor of their prince and nation would be lost. He attempted to palliate the tax of ship-money, as necessary to maintain the reputation of the British flag, and made a ridiculous distinction on the objection that ton-

MS. Journ.  
of the Lords.

\* In the course of the debate concerning grievances, one Peard a lawyer, with some warmth of expression, called ship-money an abomination. He was reprimanded by Herbert the queen's solicitor, whose reprehension, as Clarendon asserts, was thought to have so much weight in it, that Mr. Peard very hardly escaped a severe reprimand; "which I mention, adds this pompous courtier, that the temper and sobriety of that house may be taken notice of, and their dissolution, which shortly after fell out, the more lamented." Clarendon, vol. I. p. 105, & seq.



Anno 1640. nage and poundage were used to be given for the maintenance of a fleet at sea. "It was a tax never intended, he said, but for ordinary preservation of the sea, not for extraordinary." He next set before the Commons the example of the two last Irish parliaments, and boasted what great advantages they had gained by their dutiful behavior. To crown the whole of this extraordinary harangue, he told the houses, that his majesty could not this year forbear to levy ship-money, but expected their concurrence in the raising it for the future. He concluded with magnificent promises, in the King's name, to give them satisfaction in point of security for their liberties, provided they would first satisfy him in the matter of supply.

The Commons reserved the consideration of this speech to the next day, when Edmund Waller, a young man of a good estate and promising parts, in a very sensible manner, answered the arguments which had been urged by the keeper, and that in a strain of eloquence which procured him the attention and applause of the whole assembly. The purport of his speech was to persuade the house to insist on the redress of grievances before they gave a supply: This, he said, was the custom of all parliaments, and now particularly requisite; he acknowledged that his majesty's occasions for money were evident, for the calling of a parliament was an effect which no light cause could have produced; he censured the conduct of the clergy in a very shrewd manner: "I am sorry these men, said he, take no more care to gain our belief of those things which they tell us for our soul's health, while we know them so manifestly in the wrong in that which concerns the liberties and privileges of the subjects of Eng-

England: But they gain preferment, and then it is no matter though they neither believe themselves, or are believed by others. Yet since they are so ready to let loose the conscience of the King, we ought the more carefully to provide for our protection against this pulpit-law, by reinforcing the municipal laws of the kingdom. It is worthy the observing how new this opinion, or rather this way of rising, is, even among themselves. Mr. Hooker, who was no refractory man (as they term it) thinks, that the first government was arbitrary, till it was found that to live by one man's will became all mens misery; and if we look farther, our histories will tell us that the prelates of this kingdom have often been mediators between the King and his subjects, to pray redress of their grievances. They then had love and reverence from the people."

Mr. Waller's motion, that the redress of grievances should precede the supply, was assented to by the house, and it was ordered that the lords should be consulted on this subject. Matter was prepared for the conference, and the grievances divided into three classes, according to the order of Mr. Pym had used in his speech: First, concerning innovations in matters of religion; secondly, property of goods; thirdly, liberties and privileges of parliament\*. Charles, hearing what was going forward in the lower house, went to the Lords in a great rage; told them, that the Commons had put the cart before the horse; that instead of performing his oc-

Journals of  
Commons,  
vol. II. p.  
11.

\* Mr. Pym was appointed for the first class, and to make the introduction to the whole business; Mr. St. John for the second; and Mr. Holbourne for the third. *Parl. Hist.* vol. VIII. p. 456.

casions,



Anno 1640. cations, they had held consultations of innovations in religion, property of goods, and privileges of parliament; that as for religion, his heart and conscience was with the religion now established in the church of England\*; that if the house of Commons would but trust him, he would make good what he promised by the lord-keeper†. “I conjure your lordships, added he, consider your own honor, and the preposterous course of the Commons; and desire that your lordships will not join with them, but leave them to themselves. I desire you to be careful in this point; else, if the supply come not in time, I will not say what mischief may and must follow.”

MS. Journ.  
of the Lords.

The Lords, confiding on the large promises made by the King, or overcome by his importunity, or depending on the superior virtue of the house of Commons, determined to put the task of a refusal on them: they voted that the supply should have precedency, and be resolved upon before any other matter whatsoever; and that there should be a conference with the house of Commons, in order to dispose them thereto‡. The King sent to thank the Lords for this reso-

\* The sopperies of Laud's religion, which Charles had established in the church, were one of the prime grievances which the Commons complained of.

† By what may be gathered from the hints which fell from the King and the lord-keeper, the graces Charles was to grant to his people, after the obtaining a supply, were, that if the commons would grant him the tax of ship-money, with tonnage and poundage, he would accept them as a gift, and not raise them by virtue of prerogative.

‡ One Edward Bradshaw, for selling false protections, was by the Lords committed to the Fleet, sentenced to stand in the pillory at two places, fined one hundred pounds, and sent to the house of correction till he found sureties for his good behavior; as he was a gentleman born, they remitted the punishment of whipping. *MS. Journal of the Lords*, vol. I.

lution,

lution, and to assure them, that nothing was more agreeable to him than to have a good understanding with their lordships. Their advice on this subject was no sooner reported to the Commons, than that temper, or rather lukewarmness, which had hitherto appeared to have infected their counsels, entirely vanished; they grew warm, and with unanimous consent voted it to be so high a breach of privilege, that they could not proceed upon any other matter until they had first received satisfaction from the upper house.

The next day Mr. Pym, in the name of the Commons, gave the Lords to understand, that it was not their province to meddle with the matter of supply till it should be moved to them by the Commons; that if they had taken any notice of orders in their house concerning religion, property, and privileges, that these were to precede a supply, that then they would freely join with the Commons in those things; but, for the future, they desired them to take no notice of what should be debated in their house till themselves should declare it to their lordships \*. The Lords seemed at first determined to resent the free expostulations of the Commons, but at length became sensible of their error, and acknowledged the privileges of the Commons in this point, withal entreating them not to let the difference be an occasion of wasting time; but that they would proceed in their own way on the weighty affairs of the kingdom †. The manner

\* In this dispute the Commons insisted, that the money-bills, after they had passed their house, and were consented to by the Lords, ought to be re-delivered, and by their speaker presented to the King, as their free gift and donation. *Parl. Hist.* vol. VIII. p. 462.

† The Lords began the session with a very different spirit from what they shewed in the important point of supply.



Anno 1640.  
Clarendon.  
vol. 1. p.  
106, & seq.

Saturday, 2  
May.

in which this acknowledgment was made being not full enough, or in other particulars not pleasing to the Commons, they were preparing a protestation to be sent up to the house of Peers, and to be entered in their own Journal, when they received, by Sir Henry Vane (secretary of state and treasurer of the household) a message from the King, importing, that he had by divers ways acquainted the house with his urgent necessity for a supply, and had hitherto received no answer; he did again desire them to give him a present answer concerning this business \*. After a long debate on this message, the house came to no other resolution than that the debate should be resumed on Monday in the next week, and de-

They objected to Manwaring bishop of St. David's sitting among them; read over the declaration of the Commons, and their own sentence against him, and put that business into the hands of a committee; when the King sent to assure them, that he had given command that Manwaring should not sit in parliament, nor send a proxy. The earl of Middlesex petitioned them for leave to take his seat among them: this the house did not this session determine in his favor, though the King had sent him a writ of summons. These spirited proceedings were pushed on by the popular party in the house; but when affairs began to grow to a crisis, and the ministry found it necessary to make use of threats and promises, those peers who were by fortune and inclination entirely independent of the court, found themselves too inconsiderable a body to make any opposition to that undue influence which prevailed in the upper house. *MS. Journals of the Lords*, vol. I.

\* Clarendon tells us, that in one of the King's messages to the Commons he took notice of what had passed in their house concerning ship-money, and concerning the difference which subsisted between them and the Lords; a circumstance which, this author admits, might have given room for exceptions in point of privilege, the King not being allowed, by the custom of parliament, to observe on what passes in either house till the same should be declared by themselves in due form.

fired

fired that his majesty might be acquainted with their determination. On the day appointed for farther debate, they received another message, to the following purport: That his majesty, the better to facilitate their resolutions, thought fit to let them know, that of his grace and favor he was pleased, upon their granting twelve subsidies, to be presently passed, and to be paid in three years, with a proviso that it should not determine the session, not only for the present to forbear the farther levying of ship-money, but would also give way to the utter abolishing it by any course which themselves should like best; and for their grievances, his majesty would, according to his royal promise, give them as much time as could be now and the next Michaelmas: He expected a present and positive answer, upon which he might rely, his affairs being in such a condition as could endure no longer delay. It is affirmed by Clarendon, who was at this time a member of the lower house, that the majority of the Commons seemed greatly disposed to grant a supply, though not in the same proportion or manner as was dictated in the King's message\*. Many observed, that to purchase the release of the imposition of ship-money would be acknowledging a right in the crown to exact it; they wished that matter might be examined and declared void, and then what they presented to the the King would appear a gift, not a recompence. Every other member in the house but those who were supported by the court, excepted against the largeness of the demanded sum †.

Parl. Hist.  
vol. VIII.  
p. 467.

\* This attempt to engage the parliament to buy off a tax the King had no right to impose, had succeeded in Ireland.

† Some men, who were thought to understand the state of the nation, affirmed in the house, that the amount of twelve



Anno 1640.

The assembly being greatly agitated by these two objections, they adjourned the debate till next day \*, when Mr. Hamden, whose patriotic exertions in the case of ship-money, had obtained him an almost-universal popularity, observing the temper of the house, very judiciously put a question which would meet with both the objections which had been made to the King's message: Whether the house would consent to the proposition made by the King, as it was contained in the message? Hamden's question was called for by many; when Serjeant Glanville, the speaker, who at this time had some dependence on the courtiers †, earnestly pressed the house to

subsidies was a greater sum than could be found in all England; "Such was the happy ignorance and inexperience of those times, says Mr. Hume, in regard to taxes." *Hume's Hist.* vol. I. p. 241.

\* These were the objections publicly declared; the private discourse in the house was in a different strain. The King, they said, pressed the necessity of a speedy supply; yet if the meeting of the parliament had not purposely been delayed till so near the commencement of military operations, there had been leisure sufficient to have redressed all national grievances. Others plainly said, that the King demanded supplies to carry on a civil war; that the authors of those grievances of which the Scots complained, and which had driven them into such desperate courses, were the causers of the grievances under which the English nation had long groaned; and the cutting off those incendiaries would be the only safe, easy, and honorable cure; that what the Scots had done for the recovery of their Liberty ought not to be deemed illegal; that nothing could be more unjust than to subdue them to slavery by English forces, and would terminate in supporting that unlimited power which was set up in England. *Hume*, vol. I. p. 241. *May's Hist. of the Parliament of England*, ed. 1647, p. 60. *Acherley's Britannic Constitution*, ed. 1727, p. 396.

† Glanville had been a great opposer of the illegalities of the administration; but Whitlock tells us, he had engaged to be a good servant to the King this parliament. *Whitlock*, p. 32.

comply with the King's request. He endeavored Anno 1649.  
to prevail with those who thought the proportion  
too large, by specifying the small sum which he  
himself should pay towards this tax out of a large  
estate which he possessed. In the warmth of his  
discourse, he could not help flinging out some  
severe expressions against ship-money; which not-  
withstanding the zeal he had shewn for gratifying  
the King, according to Clarendon, shook his  
interest at court. Glanville's speech having made  
some impression on the house, Mr. Hyde, a  
lawyer, who was afterwards created earl of Cla-  
rendon, and who at this time was eagerly looking  
towards preferment, being intimate with Laud,  
and a favorite of that prelate on account of his  
high-church principles\*, objected to the question  
put by Hamden, as a captious one, and pro-  
posed that it might be only put, "Whether  
they should give the King a supply or not?" If  
that was carried in the affirmative, another  
question might be put on the proportion and the  
manner. Whilst the house was divided between  
the different questions proposed by Mr. Hyde  
and Mr. Hamden, some calling for one, some  
for the other, Sir Henry Vane stood up, and  
said, "He could assure the house, that the  
putting and carrying Mr. Hyde's question could  
be of no use, for that he had authority to tell

\* He performed some services for the archbishop in the  
business of raising money towards the building of St. Paul's.  
He tells us, in the History of his own Life, that Laud's pa-  
tronage procured him the countenance of all the judges at  
Westminster-Hall; and in another place of this work, that  
the favor of the archbishop of Canterbury, the lord Coven-  
try, the lord-privy-seal, the lord-chamberlain, the lord Hol-  
land, and other persons of interest in the court, made people  
think he would make what progress he desired in his profes-  
sion. *Life of Clarendon*, ed. 1761, vol. I. p. 27. 60, & seq.



Anno 1640. them the King would accept of nothing which was not in the proportion and manner contained in his message." Upon this the house arose. The King being told, that if they came together again, they would not only endeavor to abolish ship-money, and other illegal branches of the revenue, but declare a disapprobation of the intended war against the Scots, hastily determined to dissolve them: this he did the next morning\*.

Dissolution  
of the parli-  
ament,  
5 May.

After many gracious expressions to the Lords on the complaisant part they had acted this session, he told them, That the Commons had insisted much on grievances; that there might be some, but he could confidently affirm that there were not by many degrees so many as the public voice did make; that out of parliament he should be as ready, if not more willing, to hear any just grievance, as in parliament. "There is one thing, added he, much spoken of; I mean as to matters of religion; concerning which, albeit I expressed myself fully the last day in this place, yet I think it fit again to tell you, that as I am concerned, so I shall be most careful to preserve that purity of religion which, I thank God, is so well established in the church of England; and that as well out of as in parliament, I will end as I have began, in giving your lordships thanks for the care you have of my honor and affairs, desiring you to go on, and assist me in the maintaining of my government, and the liberties of my people, which they now so much startle at: For, my lords, no King in the world shall be

\* Such was the King's fear that the Commons would proceed to some spirited declaration, that he sent for the speaker in the morning before the house met, and would not suffer him to go out of his sight till after he had dissolved them.

more careful to maintain the property of their goods, the liberties of their persons, and the true religion, than I shall be." Anno 1640.

It must be owned, that this speech carries with it strong marks of that obstinacy of opinion which is so glaring in the character of Charles, at the same time when it fully shews that false light in which he viewed all the illegal measures he had pursued; a delusion which must ever have prevented him from correcting the errors of his government. He was certainly sincere when he declared himself ready to redress any just grievances out of parliament; because he did not reckon impositions, or the enlarged power of the arbitrary courts, under the denomination of just grievances. He spoke with truth when he said he should be careful to preserve the purity of the church of England; for he thought that consisted in the power and grandeur of the prelates, and in those innovations which had with such severity been imposed by Laud. It was in this view of things he so often promised, by the lord-keeper, that if the Commons would grant him a supply he would not be deaf to their reasonable demands; but certainly those reasonable demands would have been reduced to such a trifling, equivocal class of grievances, that the ministry might have parted with them on much easier terms than a supply sufficient to reduce the Northern dominions to the desired state of slavery. It would have been the utmost folly in the Commons to have put out of their hands the only weapon with which they were armed to defend themselves and the constitution against the venom of those arbitrary principles which had visibly taken deep root in the King and his council; yet, according to Clarendon's account, the King had the majority of



Anno 1640. this parliament in his favor, and the partizans of Liberty were obliged to have recourse to art to prevent a good understanding from subsisting between the court and the house of Commons.

The heads of the popular party being sensible that all was at stake, and having perhaps entered into deep communication with the Scotch covenanters, like men who had every thing to lose, were anxious for the success of the event, though the odds were visibly in their favor. It is also reasonable to believe, that they exerted all their abilities to bring on conclusions which would disappoint the hopes of their enemies; and that they rejoiced in the dissolution of an assembly which did not appear properly affected with the present situation of affairs, or properly warmed against the spoilers of public Liberty\*. But can it be imagined, that an English house of Commons, who all this reign, and the greatest part of the preceding one, had so vigorously defended their own peculiar privileges, and the liberties of their country, had so magnanimously and resolutely withstood both the threats and entreaties of the court, and strenuously maintained that constitutional maxim, “No redress of grievances,

\* Clarendon relates, that within an hour after the dissolution of the parliament, he met Mr. St. John, that eminent lawyer who had pleaded so ably for Mr. Hamden in the case of ship-money; that though Mr. St. John had naturally a cloudy aspect, he then wore a most chearful one, and perceiving that Mr. Hyde was melancholy, he asked what troubled him? Hyde replied, the same which troubled him, he believed, troubled most good men; that in such a time of confusion, so wise a parliament, which alone could have found remedy for it, was so unseasonably dismissed. Mr. St. John answered with some warmth, that all was well; that things must be worse before they could be better; that parliament could never have done what was necessary to be done. *Clar. Hist.* vol. I. p. 110, & seq.

no money:" Can it be imagined, that, after they had declared their liberties violated in the most essential point, by the transactions immediately preceding the dissolution of the last parliament, and by the succeeding imprisonment of their members, after an almost twelve years intermission of parliaments, at a period when designs were manifestly formed for the entire suppressing the liberties of the nation: Can it be imagined, I say, that they would so basely degenerate from the virtue of preceding assemblies, as to become dupes to the very men who had been the most criminally instrumental in altering the nature of the government, and rivet their own fetters by imposing chains on the Scots?

The temper with which the counsels of this parliament had been conducted, is no well-grounded assurance of its flexibility in this point, since other parliaments which have begun with great moderation have ended with rigor. The King, on being assured the Commons were on the point of granting him a supply, immediately repented a measure which he had been hurried into by the fury of the queen and archbishop Laud \*, as well

\* Clarendon tells us, that on his hearing some discourse among the courtiers as if the King would dissolve the parliament, he went over to Lambeth to his friend the archbishop, and earnestly persuaded him to use his influence with the King to prevent the dissolution of a parliament, as well constituted and disposed towards the present government in church and state, as ever house of Commons was or would be; that the number of the disaffected was very small; and though they might obstruct for some time the quick resolving of what was fit, they would never be able to pervert their good inclinations and desires to serve the King. This assurance of the disposition of the house had no effect on the archbishop, who peevishly answered Mr. Hyde, " that he had not so good an opinion of the affection of the house as to persuade their longer



Anno 1640. as by the intemperateness of his own disposition, and the artful insinuations of those of his attendants † who wished well to the popular cause.

Sir Henry Vane did not escape censure on this occasion: he has been accused of demanding twelve subsidies; and afterwards, without proper authority, asserting to the house, that the King would not accept of less. This statesman had been long at enmity with the earl of Strafford, who had lately highly offended him by insisting on being created baron of Raby, a house then belonging to Sir Henry Vane. It is supposed, therefore, that he was induced to act this politic part in order to dissolve a parliament whose conduct did not promise vigor enough to bring to justice the culprits of the state, among whom Strafford stood the foremost in almost every man's opinion. Though private enmity, and other mean passions, are too often the motives which induce men to actions leading to public utility, yet from several circumstances it is probable, that this charge against Sir Henry Vane was without foundation, and proceeded entirely from the rancor of a disappointed faction; since, as it is observed by a very judicious historian now living, that messages of consequence are always delivered to the house in writing, after they have been thoroughly debated in the cabinet. When Vane assured the Commons, that less than twelve subsidies would not be accepted, he was seconded by Herbet the queen's solicitor, whose behavior, through the whole session, had shewn him a very

Guthrie,  
vol. III.  
p. 977.

Clarendon,  
vol. I. p.  
109.

longer sitting if the King was inclined to dissolve them.”  
*Clarendon's Life*, vol. I. p. 74, & seq.

† It is said that Hamilton, who about this time obtained the release of Loudon, out of tender regard to his country, promoted the dissolution of the parliament.

officious

official tool to the court. Add to this, the privy-counsellors were all present, and not one of them opposed or contradicted what had been advanced by the secretary. It is to be imagined, that Vane, and many others of the King's servants who wished to see revive in their country the almost-extinguished fire of Liberty, were far from exerting themselves to effect a good understanding between the King and Commons; but that he should not have authority to justify him in what he so confidently asserted is difficult to believe, since his enemy Strafford, a man of a most implacable disposition, would not have missed such an opportunity to have obtained his immediate dismissal from the King's service\*.

Charles attempted to apologize, in a declaration to the public, for this fourth premature dissolution: As usual, he laid the blame of what had happened on a few seditious persons in the lower house of parliament, which assembly, he said, he had called together, hoping that time and experience had made his loving subjects sensible of the distemper the whole kingdom was like to have been put into by the ill-governed actions of those men. The declaration ends with an invitation to the subjects who had any just cause of grievances to address themselves by hum-

Rushworth,  
vol. III.  
p. 1160,  
& seq.

\* The King, when he began to reflect on the situation of his affairs after the dissolution of the parliament, blamed Sir Henry Vane, and said, that he knew well the reputation of his subjects assisting him in that conjuncture was all which he desired. This is no contradiction to Sir Henry Vane's having a proper authority for what he asserted in the house; since it might have been resolved in the cabinet, that less than twelve subsidies would not supply the necessity of affairs, or be a fit recompence for the abolition of ship-money; and Sir Henry Vane might justify himself on that resolution.  
*Clar.* vol. I. p. 111.



Anno 1640.

ble petitions to his sacred majesty, who would give such fitting redress that his people should have just cause to acknowledge that no persons or assemblies could more prevail with his majesty than the piety and justice of his own royal nature, and the tender affection he did and ever should bear to all his people.

This declaration, intended to conciliate the affections of the public, is written in the style of an Eastern sovereign. The King's pretensions to be the sole judge and the sole redresser of grievances is, perhaps, as great an insult as ever was put on a free people, who had claim to any kind of legislative capacity, or to any protection from the authority of their laws. Charles, in declaiming on the ill conduct, as he termed it, of the parliament, fully exposed the unconstitutional notions he had conceived of the nature of that assembly, and his gross ignorance of the many instances in the annals of the English monarchy in which they had exerted very ample authority, remonstrated with their princes in the freest manner, and refused supplies when those remonstrances were not properly regarded. "Whereas, said he, these meetings and assemblies of his majesty with the Peers and Commons of this realm were, in their first original, and in the practice of all succeeding ages, ordained and held as testimonies of affection between the King and his people; the King, for his part, graciously hearing and redressing such grievances as his people in humble and dutiful manner should represent unto him; and the subjects, on their part, as testimonies of their duty, supplying his majesty upon all extraordinary occasions, for support of his honor and sovereignty, and for preserving the kingdom in glory and safety: Those ill-affected members

members of the house of Commons, instead of Anno 1640, an humble and dutiful way of presenting their grievances to his majesty, have taken upon them to be the guides and directors in all matters which concern his majesty's government, both temporal and ecclesiastical; and, as if Kings were bound to give an account of their regal actions, and of their manner of government, to their subjects assembled in parliament, they have, in a very audacious and insolent way, entered into examination, and, censuring the present government, traduced his majesty's administration of justice, and, as much as in them lay, rendered odious to the rest of his majesty's subjects not only the officers and ministers of state, but even his majesty's government itself; which hath been so just and gracious, that never did this or any other nation enjoy more blessings and happiness than hath been by all his majesty's subjects enjoyed ever since his majesty's access to the crown \*."

Had the people of England been ever so ignorant of their rights and privileges, had they been ever so much inclined to take the King's word for the superlative nature of his royal power, yet fair promises without actions would not have been a remedy for that general dissatisfaction which blazed out on the dissolution of the parliament; a measure which convinced the public, that the redress of their sufferings depended entirely on their own vigor and resolute opposition to the malice and power of their governors.

\* The exordium to this declaration is as follows: "The King's most excellent majesty well knoweth that the calling, adjourning, proroguing, and dissolving of parliaments, are undoubted prerogatives, inseparably annexed to his imperial crown, of which he is not bound to render any account, but to God alone, no more than for his other regal actions."

*Rushworth*, vol. III. p. 1160, & *seq.*

The



Anno 1649.  
Acts of  
power.

The very day after the dissolution of the parliament, the houses and persons of the lords Warwick and Brook were searched for papers. Henry Bellasis, knight of the shire for the county of York \*, and Sir John Hotham, were called before the council, and not making satisfactory answers to interrogations concerning passages in the late parliament, were committed to the Fleet. John Crew, Esq. was sent close prisoner to the Tower, for refusing to deliver up the papers which came into his hands whilst chairman for the committee of religion, and thus screening from discovery the names of subscribers to petitions which complained of innovations in religion, and the proceedings of the High-commission court †. Contrary to the almost-unvaried custom of the ecclesiastical assemblies, which ever broke up with the parliament ‡, the convocation continued to sit: They not only exerted a very dangerous independency by granting, without the sanction of parliament, a benevolence to the King of four shillings in the pound for six years; made canons §

Convocation  
continues to  
sit.

\* The same whom Wentworth had formally prosecuted for not making him a bow.

† He was committed without any cause being expressed in the warrant. *Rushworth*, vol. III. p. 1168.

‡ Finch, Manchester, Littleton, and other court-lawyers, gave it as their opinion, that the convocation called by the King's writ was not to conclude but by the King's writ, though the parliament should be dissolved. They continued, therefore, to sit as a convocation, and the King granted them a new commission to frame canons. *Heylin's Life of Laud*, p. 429, & seq.

§ Several of which were contrary to the fundamental laws of the kingdom, the liberty and property of the subject, and the right of parliament. One canon was against Popish recusants; another exacted the new ceremonies of placing the communion-table, and approved the bowing towards the East; another condemned all sectaries to the same penalties mentioned in the canon against Popish recusants, and all those

approving the new ceremonies of placing the communion-table, and bowing towards the East; Anno 1640.

those to be excommunicated who should make, import, print, publish, or disperse, any book or writing against the discipline and government of the church, and those who should maintain or abet any opinion or doctrine against the same, and all those who resorted not to church to join in public worship of God, but were content to hear sermons only; a third ordained, that all should be punished who did not keep holy, and come diligently and reverently to church, the day of his majesty's most happy inauguration; a fourth concerned regal power. Here Laud's rage and opposition to the Scots, the passion now uppermost in his breast, occasioned him to allow in this canon, that the care of God's church was entirely committed to Kings; that if in the first times of Christianity prelates used this power, it was only because in those days there were no Christian kings; and in case it was required, they were to submit their lives even to Pagan princes. For any person or persons to set up, maintain, or avow, any independent power, either directly or indirectly, to undermine the great royal office, was to overthrow the most sacred ordinances which God himself had ordained; was treasonable against God, as well as against the King. For subjects to bear arms against their King, offensive or defensive, was to resist the powers which were ordained by God; and though they did not invade, but only resist, as St. Paul tells them plainly, they shall receive to themselves damnation. This canon established every part of Sibthorp's doctrine; resolved all distinctions of regal power into the absolute monarchy of the Roman empire; and asserted, with a blasphemous extravagance, that Christ came into the world to confirm such tyrannies. In the preamble of the canon, it was required to be read upon some one Sunday in every quarter of the year; the minister was to be suspended on neglect; and no bishop, priest, or minister, was to presume to speak of his majesty's power any other way than was expressed in the canon; all persons who should maintain any point or doctrine contrary to the said propositions and explications, were to be punished with excommunication and a suspension of two years, for the first offence, and deprivation for the second.

The convocation had taken other things into deliberation; such as a pontifical, which was to contain the form and manner of the King's coronation, to serve for a rule on the like occasions; a form to be observed in the consecrating holy places; and a third for reconciling penitents who had done  
open



Anno 1640. but framed an oath to be imposed on the clergy and graduates of the university; by which they were to swear they approved the doctrine and discipline of the church of England, and that they would maintain its government by archbishops, bishops, deans, chaplains, &c \*. This oath, which was designed to make the ecclesiastics of England as much independent of the legislative power as the Scotch covenant, so much condemned by

open penance, or who had revolted from the faith; a fourth for confirmation; and a fifth for ordaining bishops, priests, and deacons. Laud also had made a motion for the new printing the Common-prayer in the Latin tongue; but these things could not be brought to conclusion, for their sitting occasioned such disturbance and clamor, that they were obliged to rise before they had perfected their work.

Among the arbitrary canons framed by this convocation is one entitled, "Concerning Licences to marry." It contains the same restrictions in granting licences which have been since adopted with additional rigor by the legislature, and universally complained of as a grievance; viz. that one of the parties should be resident a whole month in the jurisdiction of the ordinary immediately before the licence was demanded: As the law now stands, one of the parties must be resident a month in the parish where they are married, immediately before the ceremony is performed.

This convocation was nominated the most holy and sacred synod. Laud opened it with a speech in which he told the members, they were much indebted to the King for empowering them with a privilege they had not enjoyed for many years, the altering and making canons for the better government of the church. All the clergy who from fear or conscience absented themselves from this assembly were punished for contumacy; and the bishop of Gloucester, because he would not avow that he willingly subscribed to the new-made canons, was suspended from his ecclesiastical function, and committed to the Gatehouse. Besides the canons which have been already mentioned, there was one which ordained the observation of those absurd articles which had been lately introduced at visitations. *Heylin*, p. 439. *Fuller's Church Hist.* book XI. p. 168. *Nelson*, vol. I. p. 371, & seq.

\* The ministers were enjoined by the bishops to take this oath kneeling. *Fuller's Church Hist.* book XI. p. 171.

Laud,

Laud, had made their church, was confirmed and approved by Charles, but met with insurmountable opposition from every other quarter. It was looked on with abhorrence by some, because in their consciences they did not approve of the present doctrine or discipline of the church; by others, because they esteemed such an imposition, not ratified by consent of parliament, illegal; and an oath which contained an *et cætera* in the middle of it was ridiculed by every one. On the prolongation of this ecclesiastical assembly, the King declared in council, that he had granted such a commission for the remedying all just grievances, according to his gracious speech at the dissolution of the last parliament. All the forementioned canons were confirmed by letters-patent under the great seal of England, with a command that they should be read by the ministers in the time of divine service; and that all who had ecclesiastical jurisdiction should take special care the said canons were in all points duly observed, not sparing to execute the penalties in them severally mentioned, on all wilful transgressors\*. The disgusts which the people had taken at the continued succession of oppressive acts of power, obviously contrary to the dictates, as well as the spirit of the constitution, were now come to maturity, and symptoms began to appear which threatened violent convul-

\* The ratifying the illegal ordinances of this assembly; the act of violence on the lords Brook and Warwick, in searching their studies and pockets for papers; with the unlawful commitment of the late members of the lower house; were, according to Charles's sense of these matters, an entire fulfilling the promises he had made of remedying just grievances, and taking a proper care of the liberties of the subject. *Rushworth*, vol. III. p. 1172.



Anno 1640. fions in the body politic. A large number of apprentices, with others of the lower sort, beset the archbishop's house at Lambeth, and one of them, only because there happened to be a drum in company, was taken and tried for treason, and, on the statute of the twenty-fifth of Edw. III. condemned, and accordingly hanged, drawn, and quartered, and his limbs set on London-Bridge. Notwithstanding this severe example, the King was obliged to appoint both horse and foot to secure the passages about Lambeth, and guard the convocation, with a double guard to preserve them from the fury of the populace. A body of two thousand people entered St. Paul's cathedral, where the High-commission court sat, and pulled down the benches, crying, "No High-commission! no bishop!"

Rushworth,  
vol. III,  
p. 1173,  
1182.

Ship-money was every where disputed; the sheriffs were not only threatened by the council, but the attorney-general was required to send for the sheriffs of the counties of London, Middlesex, York, Berks, Surry, Leicestershire, Essex, and Northampton, to examine them, and to proceed against them as he should see cause, for their contempt in so important a service. The court and city entered into close cabals. The King had his private juntas, of which Sir Henry Vane, notwithstanding Clarendon's assertion that he was at this time suspected of treachery, was always one\*; and the heads of the discontented party

\* As a farther proof that a confidence was at this time placed in Sir Henry Vane, Charles, having a suspicion that his secret counsels were betrayed, issued out a ridiculous commission to Sir Henry Vane, and other his chief counsellors, to examine and enquire, by deposition of witnesses upon oath, who were the people who revealed the King's secrets. *Guthrie*, vol. III. p. 981. *Nelson*, vol. I. p. 344.

had their meetings and councils with the agents of the covenanters. The King was now obliged to have recourse to his power to supply his urgent necessities; the money the convocation had granted him amounted to an hundred and twenty thousand pounds\*: But this, with the sum he had raised from his other friends and dependents, being not sufficient to defray the expence of the great preparations which were making against the Scots, he attempted to force the city of London into a loan of two hundred thousand pounds. The rising spirit of Liberty repelled the attack, and the King was obliged to content himself with the pitiful, yet dangerous, revenge of imprisoning three aldermen for refusing to collect the names of those who were able to contribute to-

Anno 1640.  
Impositions.

\* It is said that the King found friends enough in the kingdom to raise a subscription of three hundred thousand pounds; but perhaps this supply, mentioned by several authors, is no other than the loan raised previous to the meeting of the parliament; because had he had interest enough in the kingdom to obtain two such large subscriptions, he could not have been in the distressed circumstances which it is very certain he was in at this time. Northumberland writes to the earl of Leicester, that notwithstanding the unhappy breach of parliament, the King designed to levy an army of thirty thousand foot and three thousand horse: "But, adds he, I cannot learn by what means we are certain to get one shilling to pay the expence. It grieves my soul to be engaged in such counsels." It is worth observing, that such was the dissipation of the English court, that at the time when Charles was in great straits, when preparations were making for a war against the Scots, the King and queen began to practise a mask: Northumberland writes to the countess of Leicester, "I assure you their majesties are not less busy now than you have formerly seen them at such exercises;" and in another place, "The King is daily so employed about the mask, that till that is over we shall think of nothing else." Fourteen hundred pounds were appointed for the charge of one of these entertainments. *Sydney's State Papers*, vol. II. p. 531, 621, 629.



Anno 1640. wards the demanded sum; and prosecuting in the Star-chamber the lord-mayor and aldermen for not distraining citizens who had not paid ship-money\*. The bullion in the Tower was seized, and forty thousand pounds forcibly borrowed from the merchants to redeem the rest. All the pepper was bought of the East-India company upon trust, and sold again at a great discount for ready money†. The resolution of debasing the coin, by mixing two or three hundred thousand pounds of copper money with a fourth part silver, was with difficulty diverted by a very strenuous discourse of Sir Thomas Rowe, in which he strongly represented the many inconveniencies and fatal consequences which might follow. Coat and conduct money was again exacted‡, and the city of London was ordered to furnish it for four thousand men. Knighthood-money was set on foot, with the commission of array, and those who held lands *in capite* of the King, were summoned to send men, horses, and arms.

Rushworth,  
vol. III.  
p. 1188,  
& seq.

These various exactions occasioned a representation from the deputy-lieutenants, setting forth, that the gentry did not know which service personally to apply themselves to; that which the

\* An order was at this time issued to take the sword from the lord-mayor. *Memoirs of Edmund Ludlow*, ed. 1721, p. 4.

† The thoughts of a cross-marriage with the court of Spain was again renewed, and an attempt was at this time made to procure a sum of money from that king. *Sydney's State Papers*, vol. II. p. 655.

‡ The payment of it was almost every where refused; and innumerable warrants were sent from the council to commit refractory persons, and constables and lower officers who had neglected to make returns. *Rushworth*, vol. III. p. 1202, & seq.

commission of array required, namely, the putting the trained-bands in a readiness to march, or the other according to escuage, and tenures in knight-service; and desiring to be informed how the money should be raised for the charge of the said bands and forces, when required to march. The council solved these difficulties by the following directions: That the service imposed upon the trained-bands and other forces, were to be performed by every man in his own person; for the attendance on his majesty, required by the other proclamations, according to the tenures in knights-service, it might be done by deputy, or else by way of composition; and for the difficulty how to provide for the charge of the forces, when they should march, they were to serve at their own expence \*. If the noblemen and gentry shewed a kind of timid resistance to oppressions which were every day multiplying, the brave and spirited commonalty continued to exhibit symptoms of a more formidable disposition. Mutinies arose among the soldiers; they openly avowed distaste to the cause for which they were to fight, ran from their colors, and laid violent hands on several of their commanders, whom they suspected to be Papists †. Such was the general appearance of affairs in England; an appearance which might strike terror to a less guilty administration!

Rushworth,  
vol. III.  
p. 1194, &  
seq.

\* These warlike preparations were required to be so entirely to the expence of the subject, that they were obliged to buy all their gun-powder at an excessive rate of the King.

† In the orders of the privy-council concerning these are complaints that the deputy-lieutenants, and others to whom that business appertained, were so backward in assisting the officers in punishing and reducing the mal-contents, and in the raising of hue-and-cries for the apprehending those who ran away, that they seemed to foment, rather than endeavor to suppress these mutinies. *Rushworth*, vol. III. p. 1191.



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While the King and council were thus busied, the Scots had not been idle in reforming the abuses of church and state, and making necessary preparations to defend their pretensions\*. Their parliament having been prorogued till the second of June, on that day they assembled. The King sent down an order for a second prorogation; but there being a deficiency of form in the commission by which it was to be executed, the parliament made use of this omission to finish their business: After passing several salutary acts, they entered into a bond for adhering to them, and prosecuting the incendiaries of the kingdom. They raised a more numerous body of troops than they were able to bring into the field the last year, and exacted a tenth penny throughout the land; large sums were borrowed upon trust, and the Scotchwomen, imitating the Roman matrons on a like memorable occasion, gave up their jewels and ornaments to supply the necessity of their country. The Scotch army, though more numerous, was sooner ready than the King's: They besieged and took Edinburgh-castle, and then marched towards the borders of England, under the command of general Lesley.

The army which Charles had raised to oppose them consisted of twenty thousand foot and two thousand horse. All the generals who had served in the last campaign were laid aside, because they were not in friendship enough with Strafford,

\* So powerfully did the spirit of order and unanimity reign among this people during their struggles for Liberty, that though neither council nor sessions, nor any other regular court of judicature sat, and though their meetings were very numerous, yet they had not been disturbed either with tumult, riot, or excess of any kind. *Scots Declaration, Nalson*, vol. I. p. 521.

who was the soul of this business \*, to enter with Anno 1640. alacrity into all his counsels. The earl of Northumberland, who, though a great favorite both of Strafford and Laud, had conducted himself in a manner not to have lost all popularity, was for this reason appointed general. Strafford, after having raised eight thousand men in Ireland, which he left to the care of his creature, the earl of Ormond, came over from that country to command as lieutenant-general; and the lord Conway, a great debauchee, notwithstanding his character as a soldier had suffered in the expedition to the isle of Rhee, was, from the sole merit of being devoted to the court, and talking to Laud of church-matters in his own style, appointed general of the horse.

Among the other advantages of the Petition of Right, it had abolished court-martials, and the lawyers, who now began to think the day of reckoning might be near, had declared, that martial law could not be exercised till the Scots had invaded England. The generals, notwithstanding this, had executed a mutineer, and applied for a pardon to the crown. On this occasion the forward Conway gave it as his advice, that the King should grant a commission for the execution of martial law, on his own authority; and if any lawyer was so imprudent as to discover the secret of its illegality to the soldiers, it would be necessary to refute him, and hang the lawyer himself by the sentence of a court-martial: "For, said he, the soldier may bring the country to reason on their disobedience in regard to ship-money, but who shall compel the soldier?"

Rushworth,  
vol. III.  
p. 1199, &  
seq.

\* It was by Strafford's advice, that the generals who served in the last campaign were laid aside. *Lloyd's Worthies*, p. 29.



Anno 1640.

Northumberland so much distasted the being called forth to act the most conspicuous part in a business which no good man in the kingdom relished, that he made use of a slight indisposition to declare himself totally unfit to perform the offices of his function \*; and Strafford, though really in an ill state of health, but too much interested to be inactive, exercised the supreme command in his stead, but still with the title of lieutenant-general; not caring, in this critical juncture, to assume that of general, because of the extreme envy and popular odium which attended him.

The Scotch  
army enters  
England.

The Scots, notwithstanding their warlike equipage, continued to preserve the utmost decorum of language and manner. On their entry into England, they dispersed two large remonstrances: In these they set forth, in a strong manner, the nature of their provocations. They had not only for many years patiently suffered, they said, the tyranny and insolence of prelates, and their continual opposition to the truth and power of religion, but also the violation of all their liberties, and almost the total subversion of their religion; that when gross Popery was obtruded upon them in the book of Canons and Common-Prayer, their petition to the King on this head was utterly

\* Whilst affairs carried a different appearance, he attached himself to Strafford and Laud, and had the art to insinuate himself so much into their good graces as to make them the means of obtaining what he desired of the King. Nevertheless, he had a dislike to both his benefactors: He writes slightly of Strafford; and of Laud he says, "That for a man to think well of the reformed religion was enough to make that prelate his enemy." When the popular party began to grow formidable, he withdrew himself from the state-cabal, and engaged with the opposite faction. *Sydney's State Papers*, vol. II. p. 623.

rejected,

rejected, and they forbade to insist under the pain of treason; that when nothing less than a total subversion of all their liberties would satisfy the pride and malice of their enemies, and when the King was marching towards them with a great army, rather than fall in seeming disobedience to their sovereign, or give the smallest distaste to their brethren in England, they complied so far with his majesty's pleasure, that, notwithstanding the determinations of their lawful assembly, they were contented that a new free assembly and parliament should be appointed, where all things concerning their religion and liberties might again be considered and established: But when, according to the articles of pacification, matters ecclesiastical were determined in the assembly, according to the constitution of the church, and his majesty's high commissioner had promised to ratify them in parliament, the parliament convened for perfecting the work was prorogued, contrary to the laws and customs of the kingdom; war was determined against them at the council-table of England, without hearing what their commissioners had to say in their defence; the petition of their parliament was rejected; their commissioners restrained; one of their noblemen imprisoned; garrisons of strangers set over them, who had exercised cruelty even against women and children; their ships and goods taken and sunk\*; the owners stripped naked†, and more cruelly used by the subjects of their own

\* Their ships were arrested in the ports of England and Ireland. In their remonstrance they say, that they forbore to make reprisals on the ships and goods of their dear brethren in England. *Monteth's Hist. of the Troubles of Great Britain*, p. 55:

† The garrison of the castle of Edinburgh committed acts of hostility upon the city and its inhabitants. *Id. ibid.*



ANNO 1640. King than by Turks and infidels; great armies prepared against them, with a terrible commission to subdue and destroy them, their Religion, Liberty, and Laws.

These their intolerable evils and provocations, they said, proceeded from the archbishop of Canterbury, the lieutenant of Ireland, with the Hispaniolised Papists, a too powerful faction in England, who had driven them to the necessity of this invasion, to stir up the English against them, that they might with their own swords extirpate their religion, and be made the authors of the slavery of both nations: The pursuing these incendiaries, and demanding justice against them of the King and parliament of England, was not coming against England, as their enemies would insinuate: That there could be no just cause of a national grievance, seeing the kingdom of England, convened in parliament, had refused to contribute to any supply against them; and this when the parliament of Ireland had offered their persons and estates for that purpose; when all plots and policies were set to work; when public declarations by authority were made; when they were proclaimed traitors and rebels at every parish-church\*: Yet so wise, so grave, so just was that high court of parliament, that no threatenings nor fears, no promises nor hopes, no finesse nor cunningly-devised suggestion, could move them to grant any subsidy for a war against their brethren; but rather, by their speeches, grievances, and complaints, as

\* The King published a proclamation, which declared the Scots and their adherents rebels; and a prayer was published, and ordered to be read in all the churches, for the King's success in his expedition against the rebels of Scotland. *Whitlock*, p. 33.

much as in them was, did justify the cause which they defended. This recent favor did so bind their hearts, that if their power was ever so great, they would judge themselves the most unworthy of men, and could look for no less than vengeance from the righteous God, if they should act against a nation so represented to them in that honorable meeting. In this their thankful acknowledgment, they desired the city of London might have their own large share for the noble professions they had given of their constant affection for religion, and the peace of both kingdoms, notwithstanding the continual assaults of the misleaders of the King against them, always rendering them seditious in his ears. This was followed by a solemn oath, that the Scots intended no enmity or rapine, and that they would take no mens goods, or engage themselves in blood, unless they were forced to it; that they would not take from their friends and brethren, but for their own money and just payment. The soul of wisdom taught, that both nations must stand or fall together; that the devices of the enemy were for the oppressing both: they come among them very sensible of their past sufferings and present dangers, both in Religion and Liberties, and most willing to do them all the good they could, for the help they had given them at the Reformation, in freeing them from the French: That in return they did expect, from the sense of their intolerable distress which forced them from their own country, that the English would join and concur with them in noble ways to obtain their just desires; and when their means were spent, would, upon a sufficient security of payment, provide what was necessary for the entertainment of their army.

These



Anno 1640.

These remonstrances ended with an assurance that the Scots would demand nothing of the King, but the settling and securing of the true Religion and Liberties of their country, according to the constitutions and acts of the late assemblies and parliament, and what a just prince owed, by the laws of God and nature, to his grieved subjects; that their abode in England should be no longer than their just grievances might be heard and redressed by the English parliament, and sufficient assurance given them for the legal trial and punishment of the authors of evil to the two nations, and for the settling the Religion and Liberties of both in peace against the machinations of Romish contrivance, acted by their degenerate countrymen; that their return should be with expedition, peace, and order; that if the Lord should bless their endeavors, and their intentions were not crossed by the opposition of the English, the fruits would be sweet, and the effects good to both nations and their posterity, and to the reformed churches abroad; Scotland would be reformed, as at the beginning; the Reformation of England, long prayed and pleaded for by the godly, would be, according to their wishes and desires, perfected in doctrine, worship, and discipline; Papists, prelates, and all the members of the antichristian hierarchy, with their idolatry, superstition, and human inventions, packed off, and the names of Sects and Separatists would no more be mentioned.

If, when the last English parliament was summoned, there remained in the majority of the nation a tenderness towards the power of their monarch, and the dignity of the prelates, that disposition no longer existed: the dissolution of  
a par-

a parliament, which, during the twelve years remission of those assemblies, had been so impatiently expected, and so much depended on for the redress of grievances; the innumerable oppressions which had been crowded into the short space between that dissolution and the invasion of the Scots; with the exorbitances of the convocation; wrought so powerful an effect on the minds of men, that the threatenings these remonstrances breathed out against prelates were pleasing to the generality of the English; and the sharp expressions against the form and discipline of their church, gave very few but the court-faction disgust. The whole of these declarations tended so much to gather the affections of men in their present state of discontent, that the Scots were expected with impatience, and every accident which retarded their march gave pain to the public. The counties of Northumberland and the bishopric of Durham, which lay immediately exposed to the invasion, absolutely refused to lend money to pay troops, or to furnish horses to mount the musketeers; and the trained-bands would not stir without pay.

Conway, at the head of one thousand horse and five hundred foot, advanced to reconnoitre the enemy, but was driven back to Newcastle. In a council of war held at this place, it was determined to fortify the river Tyne at Newburn. Conway, who could not draw together above five thousand foot and two hundred horse, when he viewed the intrenchments, judged it impossible to guard this pass, and prepared to retreat yet farther back, when he received a letter from the earl of Strafford, who, with the King, was at this time arrived at York. Strafford reproached Conway for not having skirmished with the

Strafford's  
Letters,  
vol. II. p.  
413.



Anno 1640. enemy during their march, spoke with great contempt of the Scotch army, and conjured the general to redeem his honor by some notable action, and to give the enemy battle upon their passing the river. On this peremptory advice, Conway altered his resolution, and prepared his troops to dispute the passage.

The Scots framed their behavior to their professions: They carested every Englishman who came into their camp; and Lesley, in a very civil message, demanded liberty to pass the river at Newburn with his countrymen, that they might present their petitions to the King: On a refusal, he prepared to force the passage. The English soldiers, far from shewing any alacrity to engage the enemy, began to murmur at the hardness of their duty; and it was with the utmost difficulty their officers could persuade them to stand the first onset. Englishmen seldom stand in need of being exhorted to behave with alacrity in the business of fighting; but the arguments commonly used on these occasions could little avail with men who dreaded victory worse than a defeat. On a few of their fellows being slain by the artillery of the Scots, the whole army fled to Durham, leaving the most obstinate of their officers to be killed or taken by the enemy\*. The Scots took possession of the town of Newcastle, with the King's magazines of powder, ammunition, and provision. They feasted with the mayor, drank the King's health, and entertained the inhabitants with three sermons, preached by their own divines.

Battle of  
Newburn.

English forces retreat  
before the  
Scots.  
Rushworth,  
vol. III. p.  
1238.

\* Burnet, in his *Memoirs of the Dukes of Hamilton*, says that the lord Conway was not in the engagement. *Hamilton's Memoirs*, p. 178.

Strafford,

Strafford, whose weak state of health † had hitherto prevented his entering into action, found the beaten army at Durham: he behaved with such injudicious haughtiness on the first entering into his charge, that he soon became the only enemy the army desired to overcome. They openly vindicated their conduct at the fight at Newburn; and said, that no man could wish success in the war against the Scots, without wishing England to be, by the like illegal power, enslaved: So properly did even the common soldiers, in this enlightened age, judge of the important question. The prudent conduct of the Scots supported and increased that good opinion which was every where entertained of them: Far from shewing elation at their victory, they deplored the necessity of being obliged to shed the blood of their English brethren, and treated the prisoners they had taken with such extraordinary expressions of love and civility, that they made converts of all their captives; whose reports did them infinite service. Strafford being thoroughly acquainted with the disposition of the army, found it necessary to bring them back to Yorkshire; himself and the King, who was advanced as far as North-Allerton, retired to York\*.

Anno 1640.  
Clarendon,  
vol. I. p.  
114.

† He was much subject to the stone, and was at this time just recovered from a violent attack of that painful distemper.

\* Before Charles set out on this second expedition against the Scots, he issued a proclamation to revoke the same monopolies, licences, and commissions, which had been mentioned in his last proclamation on the like subject. This shews that the other had been only regarded as an expedient, and never executed. At this time a proclamation was issued against the abuses of his majesty's royal prerogative in the levying debts, and another for the better regulating the clerk of the market and the King's water-bailiff, and to restrain the execution of the charter of brick and tile-makers. By the matter contained in these two last proclamations it appears, that in these points,



Anno 1640. In a short time, the King received a petition from his Scotch subjects, craving the redress of their grievances; and that he would, by the advice of the English parliament, re-settle the public tranquillity of the island.

Nothing could be better calculated to please the public than this well-timed application. The necessity of the King's affairs not only subjected him to the mortification of receiving the petition and the advice of those he termed rebels, but to send them a civil answer; he required the petitioners to express the particulars of their desires, he having been always ready to redress the grievances of his subjects. The Scots immediately returned answer, That the sum of their desires was, that his majesty would be graciously pleased to command that the last acts of parliament might be published in his name, with the estates of parliament; that the castle of Edinburgh be furnished and used for the defence of the subjects; that their countrymen in his majesty's dominions of England and Ireland be freed from censure for subscribing the covenant, and be no more pressed with oaths and subscriptions unwarrantable by law; that the common incendiaries, who had been the authors of the combustions, might receive their just censure; that their ships and goods, with all the damage thereof, might be restored; that the wrongs, losses, and charge, which they had sustained, might be repaid; that the declaration made against them as traitors might be recalled; that, by the advice and counsel of the state of England, his majesty might be pleased to remove the gar-

points, as in others, the subjects had been greatly abused in the exercise of the King's assumed prerogative. *Rapin*, vol. X. p. 368. *Rymer's Fœdera*, vol. XX. p. 344. 401.

risons

ritions from the borders, and all impedements which stopped free trade, and, with the advice of the said parliament, condescend to all particulars which might establish a permanent and well-grounded peace, for the enjoying their Religion and Liberties.

The King received these proposals with all the indigent rage which could be expected from a man of his disposition and strong prejudices; but the consequences of his imprudent administration began to press him now on all sides: His Exchequer was empty; his revenue anticipated; every expedient for supply tried to the utmost; his army undisciplined and disaffected; himself surrounded by people who shewed disgust at all his measures; his bosom friend Hamilton, and the tool of his tyranny Finch, unable to administer any comfort, were solely engrossed in the care of their own preservation, the ingratiating themselves with those who were able to protect them on the day of reckoning, when they should account for their past crimes to a parliament, which promised to be more formidable than any one which ever had sat in England\*.

Strafford, whose situation was too desperate to admit of management, advised fighting†; but

\* Hamilton was so instrumental in bringing the King to assent readily to pacific measures, that the popular party, both of English and Scots, became from this period much reconciled to him.

† Lord Herbert was the only man who seconded Strafford in this advice: he proposed to the King the fortifying York, and making it a garrison-town, and supported this opinion with several arguments which had a very pernicious tendency. The rest of the people about the King, who dared to deliver their opinions on this point, were of such different sentiments from these two noblemen, that Charles being desirous to throw into Stockton-castle, a place of importance on the river Tees, an additional force, he was earnestly dissuaded



Anno 1640. Charles met with such freezing looks of disapprobation to this counsel in all the rest of the military officers who attended him, that he was again obliged to submit to the humiliating circumstance of entering into another treaty with his Scotch subjects. Before he assented to this mortifying condescension, he tried the affection of the Yorkshire gentlemen, and Strafford attempted to animate them against the Scots by shewing them, that if the invaders once tasted the sweetness of their soil, they would not be in a hurry to depart; with his usual warmth he told them, that they were bound, out of their allegiance, to attend his majesty in this service; that it was little less than high-treason, and they were no better than beasts, if they refused. This petulant harangue of Strafford had no other effect than to increase that resentment which his tyrannical government of this country had raised against him: instead of making the provision which was required of them, they proposed petitions of advice to call a parliament\*, that the present differences might be composed, and a happy peace settled between the two nations.

In this extremity of affairs, the King had recourse to an antiquated custom, which had never

from it, as a measure which might give suspicion and jealousy to the Scots. Strafford had given a commission to the earl of Worcester, and his son the lord Herbert, to make arbitrary levies in the counties of England and Wales. *Rushworth*, vol. III. p. 1293, & seq.

\* Previous to this, they had presented a petition against the billeting soldiers, complaining of the enormous charge they had been put to in the last year's expedition, and representing, they could not draw together the trained-bands without fourteen days pay from his majesty. Strafford refused to present that petition in which they advised the King to call a parliament. *Rushworth*, vol. III. p. 1214, & seq. 1230. *Rapin*, vol. X. p. 448. *Smollett's Hist.* vol. VII. p. 167.

been

been practised since the time of Edward IV. of Anno 1640. calling all the Peers by writs under the great seal, to attend him at York. The complaisant behavior of the house of Lords, the last parliament, had undoubtedly filled him with hopes that the Peers would present him with a sum of money, or be so rash as to raise subsidies by their own authority \*. This expedient caused such a general alarm, that petitions poured in for the redress of grievances; against the bringing Irish troops into the kingdom †; for a treaty with the Scots; and summoning a parliament. The first petition presented to the King on this subject was signed by the peers Bedford, Essex, Hertford, Warwick, Bristol, Mulgrave, Say and Seal, Howard, Bolingbroke, Mandeville, Brook, Paget ‡. The

Rushworth,  
vol. III. p.  
1260, & seq.

\* Clarendon says, that one of the members of the council did make such a proposal. *Clarendon*, vol. I. p. 116.

† The Irish army, consisting of ten thousand foot and fifteen hundred horse, were to have invaded the Western part of Scotland, whilst the Scots were attacked in the South by the English army. Ten thousand men, under the command of the lord Herbert, were to be sent into the North of Scotland, and a fleet of ships into the Frith. The plan of the war was not ill concerted, and, could it have been fully executed, it might have been attended with a fatal success: but the instant when Strafford turned his back upon Ireland, the parliament of that kingdom, encouraged by the example of the English house of Commons, began to make objections to the new manner of levying subsidies, and threw such interruptions in the way of the officers of the crown, that the Irish army was not ready to march at the appointed time. The diligence of the Scots, and the backwardness of the English, prevented the execution of the rest of the plan. Strafford was to have returned to Ireland to take command of that army, had not the earl of Northumberland's pretended illness disconcerted the affairs in England. *Guthrie's General Hist. Carte's Life of Ormond.*

‡ The lord Wharton asserted, that himself and the lord Howard, for delivering this petition, or a petition of the like nature, were put under arrest; and Strafford moved, that



Anno 1640. second petition came from the city of London \*, to whom the Scots had very judiciously sent a complaisant and affectionate letter, inviting them to continue the Newcastle-trade, and assuring them of a perfect security. Such being the loud, the universal cry of the nation, Charles, to prevent the clamorous petitions which were preparing in all quarters, at the first meeting of the great council of Peers told that assembly, he was resolved to call a parliament; weakly adding, that the queen had advised him to it. Thus he avowed to the public, what had been long suspected, and much murmured at, that he suffered his wife to have an influence over his most important counsels.

Council of  
Peers.

The first thing determined on by the Peers was, that the King ought to enter into an immediate treaty with the Scots. They named sixteen of their own members for this commission, all of them popular men †, the King having received the mortifying advice, that he must not appoint any who were disagreeable to the Scots, for fear of frustrating the good effects intended by the treaty. Charles added six assistants to the

they should be shot for sedition. *Burnet's Hist. of His Own Times*, vol. I. p. 29.

\* The privy-council, hearing that the city was about to petition against grievances, and for a parliament, sent them a long letter, in which they endeavored to persuade them, that it was a very improper time to send such a petition, when his majesty was engaged in person for the defence of the city; and that the demanding at such a time a redress, which they might be sure to gain from his majesty's grace and goodness, would be a just censure upon them in future times. *Rushworth*, vol. III. p. 1262.

† Earls of Bedford, Hertford, Essex, Salisbury, Warwick, Bristol, Holland, Berkshire, viscount Mandeville, lords Wharton, Paget, Brooke, Pawlet, Howard, Saville, Dunsmore.

sixteen peers; the earls of Traquaire, Morton, Lanerick, Secretary Vane, Sir Lewis Steward, and Sir John Borroughs; men who, he said, were either versed in the laws of Scotland, or had been acquainted with the former passages in this business. The commissioners were recommended to make the articles of pacification for last year the grounds of their treaty; but not to yield to any of the new demands of the Scots. York was the city the King destined for the meeting, that matters might be expedited by a quick communication; but it was changed to Rippon, on the Scots declaring that they could not trust their commissioners in a place where the lord-lieutenant Strafford ruled, against whom, as a chief incendiary, they intended to insist, who had declared them traitors in Ireland before the King had done it in England, who desired the breaking up the treaty, whose commission was to destroy them, and who had in his army a great many Papists, who dreaded the pacification as productive of their ruin and dissolution; that there were many ungodly persons about the King, who waited the occasion of expressing their malice and revenge against the whole nation. They objected also to the earl of Traquaire assisting at the treaty, because he was another of the grand incendiaries of whom they complained. This difficulty was solved by a declaration, that the assistants were not authorized to treat with the commissioners of Scotland, or to have any voice or vote in the debating or concluding any thing.

Matters being thus settled, the Scots sent commissioners \* to the place appointed for the treaty.

\* The earl of Dumfermling, lord Loudon, Sir Patrick Hepburn, Sir William Douglas, John Smith, Alexander Wedderbourn, Alexander Henderson, Archibald Johnston.



Anno 1640.

They excused their not being of numbers or quality equal to those they were to treat with, because of the absence of their nobility from the army, and that themselves were but a small committee from the parliament. After many friendly debates, or rather conferences, it was agreed on, as the preliminaries of the treaty, that the Scots should be allowed for their maintenance eight hundred and fifty pounds *per* day, a contribution they had laid on the counties of Northumberland and the bishopric of Durham, besides what they had plundered from their declared enemies the Papists and prelates: This maintenance was on condition that the Scots would content themselves with that sum, and neither molest Papists, prelates, nor their adherents; free trade and commerce was to be restored between the two nations; the victuals and other necessaries to supply the army were to be free of custom; no victuals, arms, or ammunition, were to be imported into Newcastle; and there was to be a cessation of arms, according to the particulars to be agreed upon. The commissioners for the treaty had the address to continue the debates so long upon these preliminaries, that it was the twenty-sixth of October before the conditions of the truce were determined: it was therefore impossible to discuss the articles which were to be the subject of the treaty before the third of November, the day appointed by the writs for the meeting of the parliament. The King was very desirous to have both armies disbanded; but this the Scots would not agree to, nor to another proposal which had been made of diminishing the number of both armies: He was so earnestly pressed by his own commissioners to remove the treaty from Rippon to London, that he was obliged to comply with this, as well as to the

Rushworth,  
vol. III. p.  
1297.

the cessation of arms, by which the Scots were Anno 1640. assured of the maintenance they had demanded ; and the river Tees was made the boundaries of both parties. To supply the large sum which was necessary to support two numerous armies, and to preserve the Northern counties from farther depredation, a loan of two hundred thousand pounds was borrowed of the city of London : this money was willingly advanced by the citizens, the lords of the great council of York having made it their request, with a promise that all the peers in the kingdom should be bound for the payment. Rushworth, vol. III. p. 1272, & seq.

On the first meeting of the commissioners of both parties, the English were accosted by the Scots with a very unpromising reserve and coldness. The surprize with which they were struck on this behavior was farther encreased, on the the earl of Rothes upbrading viscount Mandeville for not having shewn themselves more early in the support of the cause : Mandeville appearing astonished at this charge, Rothes pulled out of his pocket a letter signed by the earls of Bedford, Essex, Brooke, and Warwick, with the lords Mandeville, Saville, Say and Seal; in which they, in general terms, promised an hearty concurrence with the Scotch covenanters, on their entering with an army into England. The six lords, whose hand-writing had been counterfeited, concurred in so solemn an assurance that the whole was a forgery, that they at length satisfied the Scots. The deceit was afterwards found out to be a contrivance of the lord Saville : The Scots had written to their agents in London, to get some solid assurance of assistance for their friends in England, on which they might more certainly depend than on general promises ; the lord Lou- Treaty at Rippon.

Oldmixon's Hist. of the Stewarts, p. 14, & seq.



Anno 1640. don transmitted this request to the lord Saville; Saville sent his secretary to the six lords above-mentioned, who every one of them promised their good offices on every opportune occasion which presented itself, but refused to sign any compact: Saville framed a letter on these good intentions, and signed it with their forged names. He afterwards wrote another letter in his own name to Loudon, in which he earnestly exhorted him to persuade his countrymen to enter England with their army; gave him many encouragements, which had some foundation, and, to make the prospect more flattering, many false pieces of intelligence; he gave very judicious advice concerning the conduct of the Scots after their entry into England, which they seemed to have followed exactly \*. Saville, who had taken all this pains to strengthen the popular party in England by a conjunction with the discontented Scots, was a determined courtier, and a man who had no private principle of honesty, nor a disinterested one in regard to the public: His sole inducement to act this dangerous part was an invincible hatred he bore to Strafford, who had overtopped him in regard to court favor, and who had thwarted him on many occasions: the only way to ruin his rival effectually was to bring in his potent enemies the Scots. Thus the public is sometimes benefited by the vices as well as the virtues of particulars, and receives important advantages from the irregular affections of the worst members of society.

The discovery that the fore-mentioned letter was an imposture, cleared up all matter of dif-

\* Besides this, when the Scots were on the point of invading England, they received another letter to encourage them in their enterprize, and quicken them in their motions. *Oldmixon*, p. 145.

ference among the commissioners. The Scots Anno 1646. highly careſſed the Engliſh lords, to whom they proteſted what they had urged in their declaration, that they had no other deſign than to concur with the Engliſh parliament; to bind the prerogative within due limits; to circumscribe the high claims of the clergy; to chaſtiſe the insolence of the Papiſts; and to ſettle on a firm eſtabliſhment the conſtitution of the two kingdoms, on free and equitable principles. To theſe proteſtations, of themſelves ſufficiently perſuaſive, the Scots added other endearments: they brought with them, and delivered up, two officers of quality, Wilmot and O'Neale, taken at the fight at Newburn; they had treated them with great politeneſs, and had been at pains to give them high ideas of their courage, reſolution, diſcipline, good intention, and the juſtice of their cauſe. Wilmot and O'Neale were, from ſome private injuries they had ſuſtained, among the number of Strafford's enemies; and their reports of what they had ſeen and heard in the Scotch camp added to thoſe præpoſſeſſions the Engliſh had conceived in their favor, and increaſed the popular odium againſt the hated Strafford; who, when almoſt every mouth poured forth imprecations againſt him, had ſhewn, in a moſt improper manner, his courage and zeal againſt the covenanters, by ſending a party of horſe to attack them in their quarters at Durham, whiſt matters were ſettling concerning the ceſſation, by the commissioners at Rippon\*.

\* Notwithſtanding the treaty in hand, he adviſed the King yet to fight the Scots, and committed this outrage to ſhew how eaſily they might be driven out of the kingdom. He defeated ſeveral parties, and took ſome of the Scotch officers priſoners.



Anno 1640.

Lesley complained loudly of this hostility, saying he had himself forborne to make any such attempt, out of respect to the treaty. The English commissioners resented it as an affront to them; and when it was known that the officer who conducted the enterprize was a Roman Catholic, it raised such an outcry that the King was obliged to send his positive commands to the general not to give any more such orders. Before the cessation of arms, and whilst things remained in an uncertain state, the Scots discovered, through the means of their friends about the court, that they were betrayed by the earl of Montrose, who had kept up a secret correspondence with Charles; one of his letters was sent to Lesley: Montrose, on being taxed with holding intelligence with the enemy, openly avowed the fact, and asked, who was the man would assert the King was an enemy? This boldness silenced the greater part of his accusers; but the more valiant and more judicious Lesley gave it as his opinion, that he ought to be tried and executed by a court-martial \*. Charles's situation was so desperate, that he could make no advantage of Montrose's treachery; he was obliged to ratify all which his commissioners had concluded on †,

Ratification  
of the treaty.

\* An act had passed in a committee of the Scotch parliament, that none should, under pain of death, write any letters to the court, but such as were seen and approved by at least three of the committee. *Memoirs of the Dukes of Hamilton*, p. 179.

† The council of Peers with an unanimous voice determined, that it was necessary to ratify what had been concluded on, and proceed in the intended treaty with the Scots: Even Strafford, overcome by the general voice, declared, that it was not possible to keep the counties of Cumberland and Westmorland from the Scottish power; that Newcastle was not to be gotten out of their hands this winter, if the King had an army on foot of an hundred thousand men; that the boundaries

and prepare for his journey to London, there to meet a parliament, and to endeavor to satisfy the importunate demands of two enraged nations, whom he had provoked with a variety of injuries, and with whose power he was at this time in no capacity to contend.

These were not all the difficulties which agitated him at this time: Himself and his beloved counsellor Laud were alarmed at the pretended discovery of a plot among the Papists, which threatened both their lives. It was communicated to Sir William Boswell, Charles's resident at the Hague, by Andreas ab Habernfield, a domestic of the queen of Bohemia, who pretended to have it from a Papist converted to the Protestant faith, and let into the secret on account of his supposed orthodoxy. The story imported, that the pope and cardinal Richlieu were deeply concerned in fomenting the troubles of Charles; and that measures had been taken by Con and Rosssetti, two nuncios from Rome, for poisoning both the King and the archbishop. This was supported by a detail of cabals, meetings, and characters, among the Popish faction, of which it was affirmed the queen, the earl and the countess of Arundel, were patrons and directors. Laud was the only person in England to whom this plot, under the promise of an inviolable secrecy, was discovered. He communicated it to Charles, with the same cautions; and Charles chose to suppress the matter, rather than quarrel with his good friends the Papists, who in this time of his necessity had advanced him large sums of money. It is likely

Rushworth,  
vol. III.  
p. 1310,  
& seq.  
Guthrie,  
vol. III.  
p. 986, &  
seq.

boundaries of Yorkshire were not to be defended; and the King's army could not be trusted. *Rushworth*, vol. III. p. 1308, & seq.

he



Anno 1640. he did not give much credit to the tale, since nothing could be more improbable than that conspiracies should arise from that quarter. Had it been related of the Puritans, he would have been glad of an opportunity to have seized their persons, and rendered them suspected to the public. Without any impeachment of his understanding, he might treat very slightly an intelligence which involved in treasonable designs against his person both his beloved queen, who, by the power she had over him, governed with an uncontrouled sway, and a party for whose sake he had incurred the resentment of his whole people. The affair, perhaps, had no foundation, but in the imagination of the queen of Bohemia, who might have trumped up this story from public report and secret intelligence, attempting, by the alarming tale, to set Charles against a faction who had ever shewn themselves her inveterate enemies.

## C H A P. VI.

*Parliament.—Strafford impeached of high-treason.—And others.—Windebank flies.—Laud accused.—Wren and Pierce prosecuted.—Patents for monopolies cancelled.—Ship-money declared illegal.—Finch accused of high-treason:—Flies.—Judges accused.—Judge Berkley sent to prison.—Bill for triennial parliaments.—Trial of Strafford.—Attempt to debauch the army.—Plot discovered.—Protestation.—Bill for continuing the parliament.—Strafford's execution.—His character.*

ENGLAND had for a long series of years suffered her princes to exert a very unconstitutional authority over her: the tyranny of Charles

Charles was borne with a patience which gives us a despicable idea of the temper of the nation during the first fifteen years of that prince's reign. The Scots at length broke the chain of passive obedience, which had so long fascinated their neighbors: The spirit of the English constitution, which had been restrained by the Tudors, and totally suppressed by the Stewarts, burst from its confined state with energy; like a mighty torrent, contemning the weak bounds of art, it broke through regal restraint, and the people with one voice demanded a parliament. This their privilege of legislation extorted from the crown, they were careful in whose hands they should trust the precious deposit. The court, notwithstanding its utmost efforts, was unable to make any part in the ensuing elections: so strong was the sense the people had of their past sufferings, so dear to them the prospect of recovering their lost Liberty, that the votes universally ran in favor of those whose actions and sufferings proclaimed their attachment to popular privileges. On these principles, patriots were returned, whose number, virtues, and abilities, were greater than had ever been convened together in any age or country. On this parliament, which the people had chosen to redress their wrongs, and to execute popular plans, left imperfect by the abrupt dissolution of other assemblies; on this parliament, summoned at a time of universal discontent, did the King, by his necessities, entirely depend.

Strafford was sensible of what irresistible powers the leaders of the opposition would be possessed; and earnestly requested the King to permit him to go back to Ireland, that he might there take measures for his majesty's service, and secure

Whitlock,  
P. 36.



Anno 1640. secure his own person from the resentment of his enemies. Charles, notwithstanding the mortifications he had undergone the last three months of his reign ; notwithstanding the apparent union of the Scotch mal-contents with the majority of his English subjects ; yet fondly imagined, that there was something in his kingly capacity which could withstand, if not over-power, the rage of the popular party. He told Strafford, that his counsel and presence would be necessary to him ; that as he was King of England, he had power to secure him from danger ; and that the parliament should not touch one hair of his head. Strafford, contrary to his own conviction yielded to his master's entreaties, and consented to come to London after he had settled the necessary affairs of his army \*.

Meeting of  
parliament.

On the third of November the parliament met ; and such was the active spirit of the times, that the house of Commons was almost full at the very opening of the session. The King, as if afraid or ashamed to meet the public eye, refused to ride in his accustomed pomp, and went privately in his barge to the Parliament stairs. In his speech to both houses, he reflected on the incredulity of those who refused to trust his personal assurances in regard to the designs of the Scots. He recommended, with some warmth, the chasing the rebels out of the kingdom ; told

\* Clarendon tells us, that these affairs were to suppress the mutinous spirit of the army, and to dispose the county of York towards the King's service ; that in both these businesses Strafford met with great mortifications : The officers repaired to London to serve in parliament, in defiance of his authority, when he had denied them leave of absence ; and those gentlemen of the county who had most depended on him withdrew their attendance, and entered into a combination with his enemies. *Clarendon's Hist.* vol. I. p. 126.

them

them he was resolved to put himself freely and clearly on the love and affection of his English subjects; and promised an hearty concurrence in redressing their just grievances: He offered them a full and circumstantial account of affairs, if they desired it; he recommended to them to provide for the payment of his army, which must otherwise be disbanded, whilst that of the rebels was kept on foot; and lastly, conjured them to lay aside all suspicion; for it should not be his fault if this was not a happy parliament\*. When the King had finished his speech, the lord-keeper Finch began a long detail of the state of affairs: He justified the King, and dwelt much on the ill behavior of the Scots; but took care to compliment the city of London on their readiness to advance the required loan: He concluded with expatiating on the dangers of the nation, and the misery the Northern counties must continue to suffer, if the parliament did not effectually co-operate with the King†.

\* This speech of Charles breathes a greater air of frankness than he had ever before used; but it was not in the power of words to divert the resolutions of this assembly. Clarendon tells us, that before the meeting the members made no scruple to avow their intention of pulling up the causes of grievances by the roots; at the same time declaring, that if all men would do their duty the event must be happy.

† In this long harangue he did not omit to flatter the King and his family with much fulsome panegyric: He told the Commons to wipe the glass, and wipe their eyes, and then they would see their king a king of exemplary piety and justice, of rare endowments and abilities of nature, of unparalleled moderation in great affairs; his other part, the queen, was a mirror of virtue, from whom, since her happy arrival, no subject ever received other than gracious and benign influence. In the course of this eulogium, he ran into the King's error, and avowed the influence the queen had over the public counsels, by alleging, that none could more co-operate to the happy success of this parliament than her majesty.



Anno 1640.

Charles had fixed on this creature Sir Thomas Gardiner to be appointed speaker; but he had the mortification to find that he was not returned to serve as a member of the house\*. The election fell on Mr. Lenthall, a lawyer of narrow drudging abilities, inoffensive in his conduct, and pitched on by the King, because he had never signalized himself in opposition to the government of church or state.

Nov. 5.

Lenthall, in his address to the throne, expatiated on the utility of parliaments: "They bound the crown to the sacred temples, he said, and freed majesty from the interpretation of misdoing." He did not forget to put the assembly in mind of the treason intended to be perpetrated against the two houses of parliament by the Roman-Catholics. In the course of his speech he aimed a blow at the judges, whom he compared "to cisterns of fair water, wherein each deviation, each wrinkle was discernible."

The King had very unadvisedly termed his Scotch subjects Rebels; and, notwithstanding the treaty then in agitation, recommended the chasing them home. When the Commons were withdrawn, he desired the Lords to relate to the lower house those great affairs for which they were called together; and again termed the Scots Rebels; talked of making them know their duty, and sending them home whether they

majesty. He advised the Commons to moderate counsels, in the following trope: "Sail, said he, between the tropics of moderation, that there be no declension from the pole of security."

\* This man, though recorder of London, was rejected with disdain by that city, and other places he had tried in vain. This is a strong instance of the activity and strength of the popular party.

would

would or no. This intemperance of speech gave Anno 1640.  
 great offence to the majority in both houses. The Parl. Hist.  
 Commons had no sooner settled the ceremony vol. IX. p.  
 of a fast, than immediately they entered upon 33, & seq.  
 business: Large committees were appointed for  
 privileges, for elections, for religion, for griev-  
 ances, for courts of justice, for trade, and for Irish  
 affairs. Such a multiplicity of complaints pour-  
 ed in upon them, that these were subdivided into  
 forty lesser committees. Every hour brought  
 fresh proofs of the general discontent of the na-  
 tion, besides petitions in behalf of Burton, Prynne,  
 Bastwick, Lilbourn, Leighton, and other private  
 sufferers, which were all favorably received\*;  
 not a county which did not send up a long list of  
 grievances. These were presented to the house  
 by their several representatives.

The lord Digby, member for Dorsetshire, re-  
 lated the discontents of that county by word of  
 mouth: "I would not have you think, said he,  
 that I serve for a land of Goshen; that we live  
 there in sunshine, whilst darkness and plagues  
 overspread the rest of the land. As little would  
 I have you think, that being under the same  
 sharp measure as the rest, we are either insensible,  
 or that the shire wanteth a servant to represent its  
 sufferings boldly." After enumerating the heads  
 of those complaints himself and partner had re-  
 ceived from their constituents on the day of elec-  
 tion, such as ship-money, pressing soldiers, mili-  
 tary taxes, monopolies, and the new canons, he  
 thus pursued his discourse: "Doth not every  
 parliament-man's heart rise to see the prelates  
 thus usurp to themselves the grand pre-eminence

\* When a question was put relating to a considerable  
 grievance, not one member offered to put a negative. *Parl.*  
*Hist.* vol. IV. p. 108.



Anno 1640. of parliaments, the granting subsidies; and that under so preposterous a name as a benevolence, for that which is a malevolence indeed? Who can think with patience on such an ensnaring oath as that the new canons enjoin? where, besides the swearing such an impertinence as that things necessary to salvation are contained in discipline; besides the swearing that to be of divine right which the learned never pretended was so, as the arch things in our hierarchy; besides the swearing not to consent to the change of that which the state may upon great reason think fit to alter; besides the bottomless perjury of an *et cætera*; men must swear that they swear freely and voluntarily what they are compelled unto; and lastly, that they swear that oath in the literal sense, whereof no two of the makers themselves, that I have heard of, could ever agree in the understanding. For those particular heads of grievances whereby our estates and properties are radically invaded, it hath been a metaphor frequent in parliament, and, if my memory fail me not, was made use of in the lord-keeper's speech at the opening of the last, that what money Kings raised from their subjects it was but as vapors drawn up from the earth by the sun, to be distilled upon it again in fructifying showers. The comparison, Mr. Speaker, hath held of late in this kingdom too unluckily: What hath been raised from the subject by those violent attractions hath been formed, it is true, into clouds to darken the sun's lustre, and hath fallen again upon the land, but in hail-stones and mildews, to batter and prostrate our liberties, to blast and wither our affections." Lord Digby concluded his speech with a motion, that a remonstrance should

should be presented to the King, clearly pointing out the pernicious authors of public calamities. Anno 1640

Sir John Colepeper, one of the members for Kent, expatiated on the public evils, and the particular ones of his county. Mr. Grimstone observed, that this was the age which produced Achitophels, Hamans, Woolfies, Empsons, Dudleys, Tressilions, and Belknaps, monsters of all sorts. Mr. Bagshaw asserted, that the honor of a king consisted in the wealth of his people; that to make a people rich, they must have ease and justice; ease in their consciences from the bane of superstition, the tortures of strange oaths; ease in their persons from illegal arrests and imprisonment; in their lands from forests where never deer fed; from depopulations where never farm was decayed; and from inclosures where never hedges were made. They must have justice, or they could not subsist; if the streams of justice were by unrighteousness turned into gall and wormwood, or by cruelty into blood, the people who drank of those brooks must needs perish. Mr. Bagshaw observed on the strictness of the oath the judges were obliged to take, and on the infringements of that oath, "It will be never better times, said he, if the authors of these evils go unpunished; during parliament, like frozen snakes, their poison dries up; but let the parliament dissolve, and then their poison scatters abroad, and does more hurt than ever. What the plaister will not do must be done with the saw: Let them be cut off in their wickedness who have framed mischief as a law; let the violation of the statute of monopolies, and the Petition of Right, be made felony, or premunire at the least; and in the interim let the authors of our miseries be made examples of punishment."



Anno 1640.

The eminent speakers did not fail to represent the national grievances with the high coloring of the most lively eloquence: But the house, though sufficiently warmed with the discussion of these topics, was at present too much ingrossed on a very particular and interesting point to come to any resolutions on these general heads. Sir John Clotworthy, an Irish gentleman, on the very first day of the Commons entering on business, had drawn such a picture of the tyrannical administration of the kingdom of Ireland, as increased the prejudices of the house against its already-detested governor.

Clarendon,  
vol. I. p.  
137.

On the eleventh of November, when it was certainly known that Strafford was arrived in London, Mr. Pym, in a long discourse in which he enumerated all the grievances of the nation \*, said, "If any thing could increase their indignation against the enormous and criminal project which had been formed of subverting the laws and liberties of the kingdom, it would be to find, that the constitution had been endangered by the worst of ministers under the reign of a pious and virtuous King. We must enquire, added he, from what fountain these waters of bitterness flow; and though doubtless many evil counsellors will be found to have contributed their endeavors, yet there is one who claims the guilty pre-eminence, that is Strafford; a man who, in the memory of many present, hath sat in this house an

\* In this enumeration, Mr. Pym mentions the sale of nuisances: "The King, said he, is to take care of the public commodities and advantages of the subject, as rivers, highways, common-sewers, by ordinary writs *ad quod damnum*; but now it is done by a course extra-judicial, by enforcing compositions; so if a nuisance is compounded for, it is a hurt to the people; if no nuisance, then it is used to the party's prejudice." *Parl. Hist.* vol. IX. p. 65.

earnest vindicator of the laws, and a most zealous assertor and champion for the liberties of the people; but it is long since he turned from these good affections, and, according to the custom of apostates, is become the greatest enemy to the liberties of his country, and the greatest promoter of tyranny any age hath ever produced." Sir John Hotham, a Yorkshire gentleman, and others, spoke to the same effect; and after many hours spent in inveighing against this notorious criminal, the doors having been previously locked to prevent discovery of the intended purpose, when the resentment of the house was inflamed to its highest pitch, it was suddenly moved, that the earl of Strafford should be immediately impeached of high-treason.

This motion was received with universal approbation; nor had there been in the whole course of the debate one person who offered testimony in favor of the offender. Lord Falkland, a man greatly bigoted to forms, proposed that the particulars which had been mentioned should be digested by a committee before accusation; declaring at the same time, that he was fully satisfied there was enough for a charge. Pym soon removed this interruption by telling Falkland, that the delay he proposed would probably blast all their hopes; that the earl's power with the King was so great, that when he should learn his wickedness was discovered, he would immediately procure the dissolution of the parliament, or attempt some other desperate measure for his preservation; whereas, if he was unexpectedly impeached of high-treason, the lords in justice would be obliged to commit him to safe custody, and thus he would be sequestered from having access to his majesty. The Commons, convinced



Anno 1640.  
The Commons im-  
peach Strafford of high-  
treason.

by this argument, voted the accusation; and Mr. Pym was chosen to carry it up; and, to shew their unanimity on this point, almost the whole body attended the messenger.

Strafford was at this time in the house of Peers: It is conjectured, that he had an intention this day to accuse the lord Say and other members of both houses, who were thought to have held a correspondence with the Scots. He found the Lords in a debate which took them up a considerable time\*; and whilst he was waiting for an opportunity to address them, Mr. Pym appeared at the bar, and, in the name of all the Commons of England, impeached him of high-treason, and desired that he might be sequestered from all councils, and be put into safe custody. No sooner was Mr. Pym retired, than the Lords, with almost one voice, called upon Strafford to withdraw. He having obtained leave to be heard, endeavored to influence the Lords, by representing to them, that it would be of bad consequence to their privileges and birth-right, if, upon such a general charge, they should suffer a peer of the realm to be committed to custody, and deprived of his seat in parliament. Potent as these reasons must appear to an aristocratical assembly, yet on this occasion they had not the intended effect: The Lords, with very little debate, resolved he should be committed to the usher of the black rod, to remain under his care till the Commons should bring in a particular charge. Upon his knees, at the bar of the house, was this determination pronounced to him. The lord-keeper having performed this office, Strafford was taken away by the usher; and Mr. Pym

\* The debate was concerning the Scotch treaty.

was called in, and informed, that the Lords had Anno 1640. complied with the desire of the Commons.

Liberty had now began her triumphant course; her inveterate enemy was, on the first attack, subdued. The arrogant Strafford, who the year before entered the upper house with the parade of a conqueror, and whilst he related the wonders of his Irish administration, was received by the Lords with applause for the supposed wisdom of his conduct, and who this very day had entered that assembly with imperious thoughts, and disdainful sentiments against the Commons, was in an instant, by the enemies he despised, reduced as a criminal to receive on his knees the sentence of imprisonment. The Commons sent over to Ireland for Sir George Radcliffe and Sir Robert King, to appear as witnesses against Strafford; but on being informed, that Radcliffe had been the tool which Strafford had made use of to execute all his infamous purposes, they likewise impeached him of high-treason\*, and secured his person. Mr. Pym, with his usual accuracy, in a conference with the Lords on this subject, made this distinction on the nature of the corruption which had influenced these ministers: "In the crimes committed by the earl, said he, there is haughtiness and fierceness: in those of Sir George Radcliffe more of baseness; having resigned and subjected himself to be acted upon by the corrupt will of another. The earl of Strafford hath not

\* He had been already impeached of high-treason by the Irish house of Commons. Audley Mervin, who carried up his impeachment to the Irish Peers, told them, that his treasons had transcended so much all former ones, that they seemed to be but petty-larcenies in respect of his. In this speech of Mervin he complains, that the clause in the Irish address relating to Strafford was fraudulently inserted. *Rassworth*, vol. IV. p. 214.



Anno 1640. been bred in the study of the law, and having stronger lusts and passions to incite, and less knowledge to restrain, might more easily be transported from the rule; but Sir George Radcliffe, in his natural temper and disposition being more moderate, and by his education and profession better acquainted with the grounds and directions of the law, was carried into his offences by a more immediate concurrence of will, and a more corrupt suppression of his reason and judgment."

The proceedings of the house of Commons were equally quick in regard to other criminals: they had examined two messengers, Newton and Gray, and the keepers of the prisons about London, on the very day of Strafford's impeachment; and secretary Windebank was ordered to answer for the many interruptions he had given to the processes against priests and Papists. This delinquent, who had been formerly Laud's creature, and promoted to the office of secretary by that prelate, had so entirely devoted himself to the queen, that he became, if not a Papist himself, a profest patron of that sect: he not only protected priests in his house, but terrified the messengers by threats from molesting them. One of the articles in his impeachment mentioned seventy-four letters of grace to Recusants, signed by his own hand: another was, sixty-four priests discharged from the Gatehouse, twenty-nine of the number by his verbal order. Windebank was in the house when these warrants of discharge were produced; whilst the matter was debated, he was ordered to withdraw, and finding that the proofs would be very strong against him, he retired to his own house, and fled the kingdom the next morning. From Calais he wrote a letter to the earl of Pembroke, wherein, according to the custom

custom of other offending ministers, he vindicated himself on the unconstitutional plea of having committed offences in obedience to his master's commands\*.

The public did not long languish for a parliamentary prosecution against the objects of their extreme hatred. The prelate Laud, that declared zealot for tyranny and persecution, could not long escape in the strict scrutiny which was now making concerning grievances: After a long debate on the new-made canons, it was resolved, that they did not bind either the clergy or the laity of the land; that the said canons and constitutions contained in them matters contrary to the King's prerogative, to the fundamental laws and statutes of the realm, the rights of parliament, the property and liberty of the subject; and were matters tending to sedition, and of dangerous consequence: it was resolved also, *nullo contradicente*, that the contribution granted to the King by the clergy in the several convocations holden at London and York in 1640, were contrary to the laws, and ought not to bind†. In the debate previous to these resolutions, Sir Edward Deering, one of the mem-

\* Windebank had obtained a discharge from the King of all penalties which he might incur from his conduct in regard to Recusants. He got safe out of the kingdom by a mandate, signed by the King, to suffer him to pass without molestation. His papers were secured from search by Cottington; among those which came to light were found notes relative to an union with the church of Rome. *Prynne's Introduction to the Trial of Laud*, p. 124. 131. 146.

† Many of the inferior clergy petitioned against the power the convocation had usurped, of taxing their brethren without the authority of parliament. The penalty which had been imposed for non-payment was, deprivation of their function, to be stripped of their freehold, and excommunication. *Kennet's Complete Hist. of Eng.* vol. III. p. 103.



**Anno 1640.** bers for Kent, a man who possessed volubility in speaking, and who had taken some pains to attain a knowledge of the nature and grounds of those pretensions of the prelates which were now become the subject of dispute, made a long speech, in which he exposed all the palpable objections which lay against the convocation or synod, as they termed themselves. He called it a conventional, synodical assembly of commissioners, a threefold chimera, a monster to the law of the land, and a Cerberus to the religion. He entered into a deep discussion on synods, and alleged, that from the time of the apostles they were ecclesiastical councils, chosen by the free voice of clergy and laity; that even the Roman-Catholics acknowledged, that the church could not be represented if the laity were excluded; for the acts of national synods being binding to the whole nation, it could not justly be so if the laity had no share in the consultation, or choice in the consulters.

Rushworth,  
vol. IV.  
p. 100.

Mr. Nathaniel Fiennes, son to the lord Say, a young man of good parts and great reading, made a long, yet judicious harangue, on the enormities which were in the canons. In the first, he said, the convocation had assumed a parliamentary power in a very high degree: they had not only defined what the power of the King was, what the liberty of the subject, but had forbidden persons to speak in any other way than according to their definition. He asserted, from the authority of their own text, the sacred scriptures, that all magistracy was the ordinance of man: "But these divines, continued he, have an aim in teaching that kings are an ordinance of God; for then they must receive the manner of their government from the prescript of God's word

word; and consequently, if there is no text in Anno 1640. either of the Testaments, that kings may not make laws, nor lay impositions without parliaments, they may do it out of parliament. In the second canon they have also assumed to themselves a parliamentary power, to appoint holidays contrary to the express words of the statute. In the canon against sectaries there is an especial proviso, that it should not derogate from any statute or law made against them; as if their canons had power to disannul an act of parliament. In the fourth canon, against Socinianism, they determine an heresy not determined by law; a point expressly reserved to a parliamentary determination: in this canon, for the most trifling offences, such as bringing a book over from beyond sea which differs from the discipline of the church of England, men are to be excommunicated *ipso facto*, and lie under the same penalty as if they had maintained an opinion contrary to the most material point of faith. In the sixth canon, they have undertaken to impose new oaths on the subject, a power of an higher nature than to make a law; for a law binds no longer than till another law is made, or whilst the person resides in the land; whereas an oath binds for a man's life." Mr. Fiennes proved, that those canons which had the most favorable appearance carried in them a great degree of malignancy, and moved that the house would proceed to condemnation.

The committee appointed to prepare the votes concerning these matters, had particular directions to consider how far the archbishop of Canterbury had been an actor in these proceedings; and farther to examine what part he had acted in the great design of the subversion of the laws and religion of the realm; and to prepare and draw up a charge against him, and such  
others



Anno 1640. others as should appear offenders in these particulars. This was the prelude to Laud's impeachment: Complaints poured in on all sides; he was accused by the Scotch commissioners of being the prime cause of those innovations in their religion which had occasioned the present commotions; letters were produced which had passed between him and the Scotch bishops: These proved, that he had for some years directed the ecclesiastical affairs of that kingdom; and, by the force of menaces and promises, had maintained an high degree of authority over the episcopal order. On the report of their committee, the house of Commons did not hesitate to accuse him to the upper house of the crime of treason. Mr. Holles was appointed to carry up the message, and the Lords immediately committed him to the custody of their usher.

Laud accused of high-treason.

On this accusation, Laud desired leave to speak: He entered into a protestation of his innocence, and had the imprudence to say, that there was not a member of the house of Commons who believed in his heart he was a traitor: for this unguarded expression he was sharply reprehended by the earl of Essex. He desired to be proceeded with in the antient parliamentary way, but was checked by the lord Say for pretending to dictate to the house. He begged leave to recant what he had said, but was refused. And thus this arrogant churchman, who had for many years directed almost every court of justice in the kingdom, was in a moment reduced to the condition of a criminal, and denied those indulgencies and civilities which a less detested person of his age and rank would have found in such mortifying circumstances\*. Many bitter speeches

\* The Lords fined him five hundred pounds for the imprisonment of Sir Thomas Howard. Sir John Lamb and Sir Henry

had been made against him in the lower house : Anno 1640.  
 Sir Edward Deering declared, he had exercised a supreme ecclesiastical power in the three kingdoms ; and mentioned some particulars concerning his arbitrary proceedings ; that he pleaded fair for a patriarchate ; but if there must be such a governor, a pope at Rome would do less hurt than a patriarch at Lambeth. Mr. Grimstone said, “ that he was the sty of all pestilential filth ; that it was him who had infected the state and government of the commonwealth ; he was the author of all the miseries it now groaned under ; he had brought in the earl of Strafford \* ; given the secretaryship to Windebank ; and promoted Mountague, Manwaring, and all those prelates who were suspected of Popery ; there was scarce any grievance or complaint in which he was not mentioned ; like a busy angry wasp, his sting was in every thing ; he was the corrupt fountain which had vitiated all the streams ; till that was purged, clear channels could not be expected.” Laud petitioned the upper house for liberty to take the air ; this favor was granted, with a proviso that he should do it in the company of his keeper, and not be suffered to speak to any body out of his presence.

The instruments of this prelate’s tyranny did not escape the avenging arm of Justice, who had

Henry Martin were fined two hundred and fifty pounds each for the same cause.

Laud, in his Diary, makes the following observation on this sentence ; “ In such a case, say the imprisonment were more than the law allowed, what may be done for honor and religion sake ? ” *Franklyn’s Annals*, p. 881. *Rushworth*, vol. III. p. 1087.

\* Strafford was brought in by the earl of Portland, and immediately patronized and promoted by Laud. *Lloyd’s Worthies*, p. 22.



Anno 1640. now set up her standard in both houses of parliament. Matthew Wren bishop of Ely, and Pierce bishop of Bath and Wells, were informed against for many high crimes and misdemeanors; such as practising and enforcing superstition and idolatry, and persecuting those who did not submit to these corruptions. At the desire of the Commons, they were ordered by the Lords to give bail for ten thousand pounds to stand the judgment of parliament. Every member of the late convocation was condemned to large fines; and numbers of ecclesiastical delinquents were severely punished by imprisonment, or otherwise, for being guilty in their several cures of persecution and idolatry\*.

The attack on the clergy did not stop at the punishment of the individuals of the order: A bill passed the lower house for disabling bishops, or any clergyman, from being privy-counsellors, or in the commission of the peace, or to have judicial power in the Star-chamber, or in any civil court. Mortifications of all sorts overwhelmed that body, who had been for some time the church triumphant. The name of the spiritual lords was left out in acts of parliament, and the law ran in the name of King, Lords, and Commons†. On the day appointed for a solemn fast and humiliation, the whole order of temporal peers, contrary to former practice, in going to church took place of the spiritual. Carlisle and

Diurnal Occurrences,  
ed. 1641.  
p. 4.

\* The severity of justice was sharpened from the resentment of that cruel usage which the non-conformists had met with in this reign. One Dr. Layfield pleaded, that he had privilege as a member of the convocation-house; but the Commons resolved that he should be sent for as a delinquent, notwithstanding his plea. *Rushworth*, vol. IV. p. 59.

† The clerk of the upper-house, in reading the bills, turned his back upon the bench of bishops. *Hume*, vol. I. p. 264.

Morton,

Morton, two moderate bishops, were appointed Anno 1640. to preach; and whilst the second service was reading at the communion-table, it was interrupted by the sudden singing of a psalm. Marshall and Burges, two clergymen who had been stigmatized with the epithet of Puritanical, preached seven hours before the Commons; and, as a requisite preliminary to their receiving the sacrament, the communion-table was removed from the East-end of St. Margaret's to the middle of the area\*. This was a prelude to the following order: That commissioners be sent into all counties for the defacing, demolishing, and quite taking away, all images or tables turned altar-wise, crucifixes, superstitious pictures, monuments, and relics of idolatry, out of all churches and chapels†. A resolution passed, that the statute made twenty-seven years ago in the university of Cambridge, imposing upon young scholars a subscription according to the thirty-sixth article of the canons made in the year 1603, is against law and the liberty of the subject, and ought not to be pressed upon any student or graduate whatsoever‡. A committee

Rushworth,  
vol. IV.  
p. 149.

\* Williams, dean of Westminster, told the committee of the Commons who came to him on this business, that he would readily obey the Commons, and do the like on the request of any parishioner in his diocese.

The lord-mayor, and the justices of peace for Middlesex and Westminster, received orders from the Commons, that the statutes concerning the Lord's Day should be put in execution. *Rushworth*, vol. IV. p. 53, 223.

† Sir Robert Harley, a zealous Presbyterian, to whom the execution of this order was committed, removed all crosses out of streets and markets. *Whitlock*, p. 45.

‡ Ordered, that the same order which was made concerning subscriptions to canons for the university of Cambridge, shall be made for the university of Oxon; and the house doth farther declare, that neither of the universities shall be



Anno 1640. which was appointed by the Commons to take cognizance of the offences of ecclesiastics, and usually denominated the committee of scandalous ministers, received daily accounts of such follies and enormities committed by that body, that the resentment of the house was continually supplied with new fuel \*.

The present temper of the Commons encouraged the public to hope an entire release from the spiritual tyranny they had so long endured. The citizens of London, to the number of fifteen thousand, subscribed a petition against the hierarchy and government of the church of England. To the petition were annexed twenty-eight articles, containing objections to the episcopal office: those objections were founded on the unlawfulness of the order, the vices of those who composed it, and the abuses with which it had been exercised. This petition was presented to the house by alderman Pennington, and was followed by three more of the same kind; one from Gloucester, one from the inhabitants of the county of Kent, and another subscribed by seven hundred ministers. These petitions were very warmly attacked by the lord Digby, and with much learning defended by Mr. Fiennes: the house had the complaisance to order, that they should be committed, and in convenient time debated.

Smollett's  
Complete  
Hist. vol.  
VII. p. 176.  
Diurnal Oc-  
currences, p.  
33.  
Rushworth,  
vol. IV.  
p. 170, &  
seq.

be subject to the injunction of doing reverence to the communion-table. *Journals of the Commons*, vol. II. p. 191.

\* A complaint was made against a minister for saying, that Puritans were damned rogues, because they refused the oath; he hoped they would hang in Hell; and wished himself in Hell to be their hangman; and taught in his pulpit, that every one ought to learn to dance, for those who could not dance would be damned. Another complaint was exhibited, that in a certain parish in the West country two days were spent in the dedication of an altar-cushion and pulpit-cloth. *Diurnal Occurrences*, p. 32, & seq.

Hitherto the King seemed to have resigned himself to the sudden fate which had so unexpectedly fallen upon him—In one moment of time reduced, from governing with an absolute sway, to be the most insignificant and the most impotent part of the legislative power: But roused by the danger which now threatened his beloved episcopacy, he sent for the two houses to Whitehall, and told them, that he intended to reform all innovations in church and state, and to reduce matters of religion and government to what they were in the purest times of queen Elizabeth; but that some men, encouraged by the sitting of this parliament, more maliciously than ignorantly, put no difference between reformation and alteration of government: hence it came that divine service was irreverently interrupted, petitions were tumultuously given, and much of his revenue detained and disputed. “ Now, added he, I put great difference between reformation and alteration of government: though I am for the first, I cannot give way to the latter. I will not say that bishops may not have over-stretched their power, or encroached upon the temporal, which, if you find, correct and reform the abuse according to the wisdom of former times; and so far I am with you: nay farther, if upon serious debate you shall shew me that bishops have some temporal authority inconvenient to the state, and not so necessary to the church for the support of episcopacy, I shall not be unwilling to persuade them to lay it down \*. Yet by this you must un-

\* Rapin observes, that the King seemed to banter the Commons in saying, that if they would shew him the bishops had any temporal authority inconvenient to the state he should not be unwilling to desire them to lay it down; as if the parliament ought to have expected, from the pure con-



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derstand, that I cannot consent to the taking away of their voice in parliament, which they have antiently enjoyed under so many of my predeceffors, even before the Conquest, and ever since, and which I conceive I am bound to maintain, as one of the fundamental institutions of this kingdom."

All the partizans of the church-faction, and those of monarchical principles, have been very liberal in their commendations of this speech, and in their censures of the parliament for not seizing the opportunity so graciously offered by the King, of effecting a thorough reconciliation of parties, of piecing up the machine of government, and suffering it to run on quietly on its old axis. Such are the sentiments of those who hold in veneration the regal and hierarchical tyranny which so long prevailed in this country. To the sensible part of both houses of parliament surely it must have appeared highly ridiculous to have heard the King, who, by his exercise of the power he found the crown possessed of at his accession to the throne, had fully exposed the abuse to which it was liable; who, by the general detestation his tyrannical government had occasioned, was in a manner unkinged, and all his prerogatives at the mercy of an able popular parliament; to hear him, at such a juncture, and in such circumstances, offer, as a favor to his people, to concur with them in measures to bring things back to their old channel, and to leave him in a situation to run another career of tyranny, with power to persecute every individual who had entered into any active measure against the malignancy of his prerogative.

descension of the bishops, the reformation of an authority prejudicial to the state; a maxim directly contrary to the principles they then acted on. *Rapin*, vol. XI. p. 80, & seq.

Neither

Neither house of parliament took any notice of the King's speech: They joined in a remonstrance, which shewed how many priests had been discharged within a few years; that the pope had a nuncio or agent at Rome resident in the city of London; that the Papists as publicly resorted to hear mass at the queen's palace as others did to attend their parish-churches. For these reasons, they insisted on the necessity of the laws being put into execution against Jesuits and seminary priests; and that one Goodman, a priest, should be left to the justice of the law. To this the King thought fit to return answer, that he would provide against Jesuits and priests, by setting forth, with all speed, a proclamation commanding them to depart the kingdom, under pain of being proceeded against according to law; that as to Rossotti, he had no commission as a nuncio, but to entertain a personal correspondence between the pope and the queen: he would persuade her to remove him, since the misunderstanding of his condition gave offence; that he would take care to restrain his subjects from resorting to mass at Denmark-house, St. James's, and the chapels of ambassadors; for Goodman the priest, he had reprieved him, because, as neither queen Elizabeth nor his father avowed that any priests were executed merely for religion\*, it might be of bad consequence to his subjects and the Protestants abroad; but he remitted that particular case to both houses. The Commons sent an order to all the justices of the peace of Westminster, London, and Middlesex, and all the counties in England and Wales, enjoining them to

\* If the law was a bad one it ought to have been repealed, and not always dispensed with by the authority of the King.



Anno 1640. command the churchwardens, and other officers, to present the names of the several Recusants within their parishes, that they might be proceeded against according to law, notwithstanding any institution or restraint.

The circular letters written by the queen, by Sir Kenelm Digby, Mr. Mountague, and the body of Papists in London, were laid before the Commons; and Digby, Mountague, Sir John Winter, and Sir Basil Brook, were strictly examined concerning the disposal of the monies raised, and the authority which Con and Rossetti had from the pope. The queen sent a letter to the Commons, informing them, that it was she who had written effectually to the King to persuade him to call a parliament; that since she has been willing to do all good offices between the King and the people, she would remove Rossetti in convenient time; and for the resort complained of, would be careful not to exceed that which was convenient and necessary for her religion. She farther observed, that the parliament was not satisfied with the manner of raising money at her entreaty from the Catholics; that she was moved thereunto by her dear and tender regard to the King: if it was illegal, she was ignorant of the law, but promised hereafter not to do any thing which did not stand with the established laws of the realm. This message was intended to conciliate the affections of the Commons; perhaps there was a mixture of female vanity in it: but surely the only probable effect it could have, was to convince the Commons of the uxoriousness of their monarch; that he did not act, on the most important occasions, by the dictates of his own judgment; but was entirely swayed by the prevailing passion of the person to whom he had devoted

voted his affection. No other answer was returned to the queen's letter, but that the Commons gave her majesty thanks for her gracious expressions.

Some time after, the King shewed to the upper house a letter he had received from Goodman the priest; wherein he desired to be executed, rather than live the subject of discontent between the King and people. The letter probably had the effect for which it was written, and excited feelings of compassion in the parliament: the Commons dropt the pursuit, and we hear nothing of Goodman's execution.

The prosecution of other kind of criminals took up, at this time, the attention of the house. The Commons having secured the two notorious offenders, Strafford and Laud, mortified the church, and put the ecclesiastical affairs of the kingdom in some train of reformation, they took into consideration the general heads of their civil grievances; they cancelled all the patents which had been granted for monopolies, as contrary to express statutes; declared every one concerned in them delinquents; and expelled all their members who were monopolists or projectors. On the grievance of monopolists, Sir John Colepeper, member for Kent, made to the house the following ludicrous representation: "The monopolists and polers of the people, said he, like the frogs of Egypt, have gotten possession of our dwellings; we have scarce a room free for them; they sup in our cup, they dip in our dish, they sit by our fire; we find them in the dye-fat, wash-bowl, and powdering-tub; they share with the butler in his box; they have marked and sealed us from head to foot. Mr. Speaker, they

Patents for monopolies cancelled, and monopolists censured.

Rushworth, vol. IV. p. 33, & seq.



Anno 1640. will not bate us a pin; we may not buy our own cloaths without their brokage: these are the leeches who have sucked the commonwealth so hard that it is almost become hectical. Some of them have a vizard to hide the brand made by that good law in the last parliament of king James; they shelter themselves under the name of a corporation."

To shew the privy-counsellors what the Commons thought of their past conduct and pretensions, one Mr. Neville, a member of parliament, was committed to the Tower for reporting to the council what had been spoken in the house. Sir William Saville was sent for as a delinquent on the same account. A committee was appointed to take into consideration the breaches of parliamentary privilege, both in the last parliament, and that of the third of this reign, and especially the proceedings against Mr. Holles, Sir John Elliot, &c. to consider what reparations were fit to be granted to the parties grieved, and of some course to prevent the like hereafter. On the question, it was resolved, *nullo contradicente*, that the charge imposed upon the subject for the providing and furnishing ships, commonly called Ship-money, was against the law of the realm, and the subjects' right of property, contrary to former resolutions of parliament, and to the Petition of Right; that the extra-judicial opinions of the judges were contrary to the said laws and resolutions, and likewise all the writs commonly called ship-writs; and the judgment in the Exchequer in Mr. Hamden's case, both in matter and substance. A committee was appointed to go to the several judges, to enquire of them, in what manner, and by whom, they were solicited or

Writs of  
ship-money  
declared il-  
legal.  
Journals of  
Commons,  
vol. II. p.  
46.

or threatened to give any opinion or judgment Anno 1640.  
concerning ship-money \*.

These votes of the Commons were sent up to the Lords by Mr. St. John, who, in a very elaborate and judicious discourse, set forth the extreme malignancy of the imposition of ship-money, determined by the judges in favor of the crown. “ The message the Commons have entrusted me with, said he, is of so high and general a concernment, that the whole body of the kingdom, both peers and people, are interested in it. It is not that ship-money hath been levied upon us; but it is that whereby ship-money is claimed, which is the gift and earnest penny of all we have. It is not that our persons have been imprisoned for payment of ship-money; but that our persons and our lives are, upon the same ground of law, delivered up to will and pleasure. It is that our birth-right is lost, and that there hath been an endeavor to reduce us to a lower state than villainage. The Lord might tax his villain *de haute & de basse*; might imprison him, but his life was his own; the law secured him that. But, my Lords, as the law is now declared, it is disputable whether it does so much for us. My Lords, the subject of this message is to present the sense of the Commons to your Lordships: that the laws of the realm have been entrusted into such hands as have endeavored to force upon them a contrary end to that for which they were

Nelson,  
vol. I. p. 705,  
& seq.

\* A committee was also appointed to draw up a charge against the lord Finch, and the rest of the judges in this business; to enquire also of the several denials of Habeas Corpus and prohibitions, their extra-judicial proceedings and opinions concerning ecclesiastical jurisdiction, and the court of Admiralty, their denial of legal and ordinary proceedings in cases of justice, and binding the whole kingdom in one man's particular case. *Rushworth*, vol. VI. p. 89, & seq.



Anno 1640.

ordained; of defensive to turn them into offensive; and instead of protecting us, to make them the instrument of taking from us all we have."

Mr. St. John produced the opinion of the judges in the case of ship-money, and observed that they were enrolled in all the courts of Westminster, *in perpetuam rei memoriam*.

"My Lords, proceeded he, if their opinion extend only to ship-money, his majesty may take what he will, and when he will; but ship-money is not the whole extent of them: Ship-money is due because his majesty is the sole judge of the danger of the kingdom, and how the same is to be prevented; because his majesty, for the defence of the kingdom, may, at his will and pleasure, charge his people. Upon the same reason, compulsion may be used for maintaining armies, castles, forts, bulwarks; it may be multiplied *ad infinitum*. His majesty, in case of refractoriness, may compel the doing of this; he is the sole judge of the danger, and how the same is to be prevented. Whether personal compulsion may extend so far as life; whether the words, "How it is to be prevented," doth not leave the matter of it wholly in his majesty's breast; I leave to your Lordships' consideration."

Mr. St. John observed, that the ship-writs gave authority to the sheriffs of each county to distrain and imprison, and that the judgment given against Mr. Hamden was a plenary execution of the opinion of the judges, and of the ship-writs, and was so binding to the subject, that an honorable person was denied any argument or debate, for no other reason, but that it had been adjudged already in the Exchequer. Mr. St. John related the votes of the Commons on these proceedings; votes passed *nullo contradicente*, on the consideration of the transactions of the parliament held the

the third of Charles, when the Petition of Right was framed. He shewed, that the King's levying money on the subject on any pretence was in this parliament condemned; even where not only the King's honor, but the safety and very existence of the King and people, and of the true religion abroad, were in apparent danger, and when the supplies could not stay for a parliament; when the people were assured, on the royal word of a king, that their money should be bestowed on those public services wherein every one of them, their wives, children, and posterity, had their common and personal interest, and this in a case where only binding of money was expressed; but it became compulsory by the instructions to bind over to the board and imprisonment for refusal. This was first resolved in the house of Commons to be against law, afterwards by the house of Peers, consented unto by his majesty, and declared so in the Petition of Right.

After Mr. St. John had thus proved the illegality of ship-money, he proceeded to shew the heinousness of the offence the judges had committed in giving an opinion against the plain dictates of the law: they did not only break their own oath, but being entrusted with the performance of this part of his majesty's oath, were guilty of an infamous breach of trust, and, as far as in them lay, blemished the sacred person of the King with the hateful sin of perjury. Mr. St. John produced examples where banishment, death, and forfeiture of lands and goods, were adjudged the punishment of this offence, even when the transgression was not so dangerous to the subject as the case in question. Judgment of high-treason was, in a parliament of the eleventh of Richard II. given against judges for an opinion



Anno 1640. nion contrary to what had been ordained by act of parliament. Violence had been offered to these judges, but fear and cowardice were not thought sufficient pleas; it was but one act; if they had been put to it a second time, perhaps, they had repented, for two of them the next day declared their grief for what they had done: but the judges now in question proceeded *a pessimo ad pejus pessimo*, declared their opinion in their circuits with additions, and a year after confirmed them by an indictment in the Exchequer. Mr. St. John farther observed, that in the parliament of the eleventh of Richard II. eighteen persons of eminent rank were condemned of high-treason for acting contrary to what had been ordained by parliament; that of the eighteen eight were executed, three fled, and the rest were pardoned the forfeiture of their lives, but banished.

Rushworth,  
vol. IV.  
p. 194, & seq.

The interest of the Lords was in this case too apparently concerned to need the force of stimulating arguments: they did not hesitate to vote the illegality of ship-money, in the same manner as the Commons; and that, *nemine contradicente*, they ordered the records of the extra-judicial opinion of the judges to be erased out of all the courts wherein they had been enrolled, and the judgment in Mr. Hamden's case to be brought into their house, and cancelled in their presence. They likewise ordered, that a copy of what they had done should be delivered to the judges, to be published at the assizes, and that an act of parliament should be prepared concerning this matter.

No one was more liable to censure on these points, and indeed on all illegal measures, than the lord-keeper Finch; all his promotions had been owing to the meanness, corruption, and villainy

lainy of his conduct: He it was who, being Anno 1640. speaker in Charles's third parliament, had left the chair, and refused to obey the commands of the house; he it was who had declared publicly, that whilst he was keeper an order of the council should always with him be equivalent to a law; he it was who by persuasions and menaces had procured the extra-judicial opinions of the judges, in the case of ship-money, in forest-affairs\*; in all oppressive practices he had been ever the most active agent. To appease, if possible, the rising anger of the Commons, which increased as these matters were scrutinized, Finch desired to be heard at their bar: this was an unprecedented thing, and it could not but be pleasing to the patrons of Liberty to see one of the satellites of the crown, who had long insulted over the constitution, who had raised himself to an envied eminence by trampling on the liberties of his country, reduced to plead before that democratical assembly, whose authority, when their servant, he had rejected, and to whom he had very lately dictated. The keeper's request was granted with little hesitation: there was a chair set to make use of if he pleased, and he was offered leave to put on his hat; he waved the acceptance of both these civilities, laid his purse upon a stool placed for the purpose, and continued bare-headed and standing all the time he spoke to the house.

He pretended to justify his conduct, but had nothing stronger to urge than that he was not the author and adviser of those things which were complained of; he denied that he had used per-

\* He said, he would make it good that all England stood upon forest-laws, except three counties. *Diurnal Occurrences*, p. 10.



Anno 1640. suasions or menaces to the judges \*; and pretended, that in his own opinion on ship-money he had followed the dictates of his conscience, and that he meant it should be taken in cases of apparent danger, when there could be no other resource. On the forest-business, he said, he had gone by records of Edward IV. †. Unsatisfactory as this defence of Finch's was, the humble manner in which it was delivered, with the eloquence of the pleader, moved the house to sentiments of compassion.

Mr. Rigby, fearing the softness which had infected his fellow members would incite them to drop the intended prosecution, honestly told them, that their pity was foolish, and their mercy cruel, if either extended to that silver-tongued syren, who had effected such mischief to the kingdom, who had recorded his injustice in every court in Westminster. " Shall we, said he, like little children, when we have been whipped and beaten, be pleased again with sweetmeats; when we have been injured and abused, be gained again with fair words and compliments? Some birds, in the summer of parliament, will sing sweetly; but, in the winter of persecution, will for their prey ravenously fly at all. We see, by the solemn ap-

\* On the examinations of the judges, it appeared, that some of them had been solicited and threatened.

† He would have acted more prudently if he had gone by the statute of the twenty-seventh and twenty-eighth of Edw. I. In Essex, being of the King's counsel, he procured jurors to make undue returns, and used threatenings to obtain a verdict for the King. People were fined or turned out of estates they had enjoyed for near three hundred years, for pretended encroachments on the forest. Afterwards, having been promoted to be chief-justice of the King Bench, he advised the justices in eyre to refuse traverse offered by the country, and all evidence but what should be verbally delivered. *Rushworth*, vol. IV. p. 137.

pointments of our courts of justice, what provision the wisdom of our ancestors has made for the preservation and honor of justice; witness our terms, sessions, and assizes; the pomp and state of the judges in their circuits; by the sheriffs, knights, and justices attended, for the hanging a poor thief for the stealing a hog or sheep; in some cases for the stealing a penny; and very justly too, *in terrorem*; and shall not some of them be hanged who have robbed us of all our property, have sheared all our sheep?" Mr. Rigby concluded with desiring the house, not to be so merciful to these wicked instruments as to be merciless to the whole kingdom. The good sense of the Commons could not oppose the dictates of this seasonable speech. They voted that the lord Falkland should go up to the house of Peers, and accuse Finch of high-treason, in that he had endeavored to subvert the fundamental laws and government of the realm, and, instead thereof, to introduce an arbitrary and tyrannical government. It was so late in the day when this vote passed that the Peers had risen: the impeachment was by necessity deferred; which gave the criminal time to escape beyond sea.

Anno 1640.

Finch accused of high-treason.

Flies beyond sea.

Clarendon accuses the Commons of partiality and design in suffering these two guilty ministers, Windebank and Finch, to fly the avenging arm of Justice; and insinuates, that they were either biased by personal favor to these criminals, or, fearing that Sir Henry Vane would be found involved in their crimes, were glad to get rid of them. Whatever was the reason for the conduct of the Commons, whether those assigned by Clarendon, or whether they feared the popular tempest would be too soon appeased, and the people become satiated with blood if all the state-malefactors



Anno 1640. malefactors were brought to execution, certain it is, that if they had been desirous to secure the persons of these offenders, they would have used more caution and expedition in their proceedings against them. Finch's impeachment, which consisted of ten articles, was, notwithstanding his flight, carried up to the house of Peers, and enforced by lord Falkland: He said that Finch had committed crimes of supererogation; that high-treason was but part of his charge; these crimes pursued him through the several conditions of his life, as a silent speaker, an unjust judge, and an unconscionable keeper. Falkland observed, that Finch had endeavored to lay the subject open to the worst of invasions, that of want and poverty, by destroying Liberty, that protector of property and industry; that, if he had succeeded in making himself parliament-proof, in this wealthy and happy kingdom, there could have been left no abundance, but of grievances and discontent, and no satisfaction but among the guilty. "His crimes, said he, are treasons as well against the King as kingdom; for whatsoever is against the whole, is undoubtedly against the head. They take from his majesty the ground of his rule, the laws; they take from his majesty the principal honor of his rule, the ruling over free men; they endeavored to take from his majesty the principal support of his rule, the hearts and affections of those over whom he rules, a better and surer strength to the King than the sea is to the kingdom\*.

Rushworth,  
vol. VI. p.  
139.  
Diurnal Oc-  
currences,  
ed. 4to.  
Lond. 1641,  
p. 16.

\* Lord Falkland was the first man in the house of Commons who moved that a select committee should be chosen to draw up a charge against Finch: "If he shall be found, said he, guilty of tampering with judges against the public security, who thought tampering with witnesses in a private cause deserving of so great a fine; if he shall be found to have gone before

The Commons next sent up an accusation against Sir John Brampton, lord-chief-justice of the King's-Bench, Sir Humphry Davenport, justice Berkley, and justice Crawley. The Lords enforced them to enter into recognizance of ten thousand pounds each to appear and answer before the parliament: at the same time they ordered, that judge Berkley, for taking insufficient bail, should pay a debt of five hundred pounds, with interest, which was owing to a citizen by the lord Wentworth. This infamous judge, having been found more guilty than his brethren, was, on a stricter examination of his conduct, impeached of high-treason, and, to the exaltation of Liberty and Justice, and the confusion of evil ministers, by order of the Peers, taken off his tribunal in the court of King's Bench, and carried to prison. Lord Falkland distinguished himself by a very warm speech against the judges.

Anno 1640.  
The judges  
accused.

Judge Berk-  
ley sent to  
prison.  
Nelson,  
vol. I. p. 654.

A young member, whose name is not recorded, poured forth very animated sentiments on the same subject, and recommended to the house the exercise of justice rather than mercy. He observed, that the examples of Empson and Dudley had a very happy effect on the reign of Elizabeth; that to pass by the guilty was equal injustice as to punish the innocent; that an omission of that duty would render them shamed in history, and cursed by posterity: "The revenues of the crown sold out-right, said he, will scarce repay the losses of this suffering nation. It is,

Rushworth,  
vol. IV.  
p. 130.

before the rest to this judgment, and to have gone beyond the rest in this judgment; that in the punishment of it the justice of this house may not deny him the due honor to precede and exceed the rest."

The fine lord Falkland alludes to was the sentence Finch gave against Williams. *Rapin*, vol. XI. p. 56.



Anno 1640. without all question, in policy that exemplary punishments conduce more to the safety of a state than pecuniary reparations. The civility of our laws tells us, that Kings can do no wrong; but the state is alone secure when the judges, their ministers, dare do none. We see the bad effect of their bold erroneous opinions: what was at first but corrupt law, is, by encouragement taken from their impunity, become false doctrine. The people are taught in pulpits they have no property; kings instructed in that ruinous principle, that all is theirs. It is thence deduced into necessary state-policy, that he is no monarch who is bounded by any law: by which bad consequences the best of kings hath been, by the infusion of such poisonous positions, diverted from the sweet inclinations of his own natural equity and justice; the very essence of a king taken from him, which is preservation of his people. And whereas *salus populi* is or should be *suprema lex*, the power of undoing us is marked under the style of what should be sacred royal prerogative. It is high time to make examples of this subverted law, bad counsel, worse doctrine. Let no man think to divert us from the pursuit of justice, by poisoning the clear streams of our affection with jealous fears of his majesty's interruption, if we look too high; shall we doubt his justice because we have need of great justice? We may be confident the King well knows that his justice is the bond of our allegiance, the proof of his sovereignty."

The whole of this speech, which is long, breathes the same spirited indignation against the corruptions and corrupt ministers of the times. The young orator began this address to the assembly in a style too peculiarly modest and graceful

ful to pass unnoticed: "It was a custom, said he, Anno 1640. among the Romans (who, as by their power they once gave laws, so, by the happy success of their long-flourishing government, might they well give examples to all the world) that in their senates the younger men spoke first, partly that they might not have their weaker notions anticipated by the more knowing senators, and partly that the senate might not be diverted from the mature resolutions of the more ancient, by the interposition of the younger men; they, as all free states, ever allowing free members to express themselves according to their several capacities: and methinks it was a happy method; so the opinions and inclinations of the assembly being discovered, and ripened to resolutions by such gradations, the sentences of the sages sounded as judgment, not orations; their wisdom and gravity put a seasonable period to perhaps otherwise endless discourses. Their precedent encourages me: Children can point out their pain, and infant graduates in parliament may groan out the grievances of a diseased commonwealth; but they must be doctors in the art of government who can apply apt remedies to recover it."

During the late tyrannical administration, very illegal powers had been exerted by the lieutenants and deputy-lieutenants of counties: the persons who had so acted were declared delinquents. The sheriffs who had assessed individuals on the writs for ship money, though obliged to it under severe penalties, incurred the same censure. This may be thought a very rigorous procedure; but as the King, by the maxims of law, could do no wrong, his ministers and servants, of whatsoever degree, were by those maxims culpable, in case of any violation of the constitution. Cowardice,

Lord-lieutenants, sheriffs, &c. employed in levying ship money, declared criminal.



Anno 1640 or the desire of screening one's person or fortune from damage, ought never to be admitted as a sufficient excuse for crimes of that high nature : on these principles, all the farmers and officers of the customs who had been employed in levying tonnage and poundage were declared criminal. They were glad to compound for a pardon, by paying a fine of an hundred and fifty thousand pounds. Every arbitrary sentence of the Star-chamber and High-commission court was reversed ; whilst all those who had any hand in them were ordered to make reparation to the parties wronged \*. All persons who had concurred in these oppressions, were voted to be liable to the penalties of the law.

\* Among those persons, whose losses and injuries the Commons endeavored to repair, Leighton was given six hundred pounds, and made warden of Lambeth-house, converted into a place of confinement for the state delinquents. Lilbourn, Pryne, Bastwick, Burton, and others, were not only reinstated in their several professions, and their sentences reversed, but great damages were decreed them. When the three last-mentioned sufferers landed in England, they were received with the highest demonstrations of affection, attended on the road by a great confluence of people, and their charges borne with magnificence. On their approach to any town, the inhabitants welcomed their arrival with shouts of applause. Several miles from the city of London, they were met by the zealots of their party ; boughs were carried before them, the roads were strewed with flowers, and the air resounded with the acclamations of the people, who mingled with expressions of joy invectives against the prelates for their barbarous cruelty, exemplified in the persons of the three triumphers. The reception of these men sufficiently marks that formidable resentment which the public had so justly entertained against the government. Among other sufferers, Sir Pierce Croftie was reinstated, and the King desired to restore him to his place of privy-counsellor in Ireland. Mr. Smart, prebendary of Durham, was restored to his prebend, and the dean and chapter was ordered to present him to the vicarage of Aycliffe. *Nelson*, vol. I. p. 512. *Hume*, vol. I. p. 260. *MS. Journals of the Lords*.

Thus

Thus at length, by the genius of the constitution, the wisdom and perseverance of the house of Commons, with the concurrence of other favorable accidents, royal power, which had almost reached the summit of absolute sovereignty, was in a moment crushed, and the maxims of rigid Law and Liberty established throughout the realm; and this without any violence or disorder. The awful tribunal, which was newly erected in the land, struck the guilty with dismay. The ministers and tools of power, finding themselves involved in the general determinations of the Commons, were glad, by an inoffensive conduct, to compound for past crimes. And thus the dependants of the court, that contemptible yet noxious tribe, were, by the fear of a deserved punishment, deterred from making any opposition to the new system of government.

To the honor of the upper house, it must be remembered, that they had been more than passive in this reformation, as if they were desirous of setting an example to the Commons in vindicating the honor and privilege of parliament. On the very first days of their entering on business, a motion was made, that whereas two lords of that high and honorable court had had their studies and pockets searched for papers, consideration might be had, whether it was not a breach of privilege; especially as it was done soon after the dissolution, and within the time of privilege of parliament. On the relation which the earl of Warwick and the lord Brooke made of this matter, the house committed to the Fleet Sir William Beecher clerk of the privy-council, and sent a message to the Commons to desire a conference with them on the business, before they proceeded against their members the secretaries Vane and



Anno 1640. Windebank, by whom the warrants for searching the two peers were signed. Business of great importance crouding upon both houses, the affair was dropped. Besides this spirited exertion, the Lords ordered two books, written by Dr. Pocklington, entitled, Sunday no Sabbath, and *Altare MS. Journ. of the Lords. Christinum*, to be burnt; addressed the King on the restraints laid on the embarkation of the subjects for the new colonies; on his having altered the tenure by which the judges held their offices, from *quamdiu se bene gesserint* to *durante bene placito nostro*; ordered coat and conduct-money to be repaid; made the petition for a parliament, presented by the Lords at York, an act of their house; returned them thanks for that service; and seconded every popular measure which had been resolved on by the Commons \*.

The parliament having thus erected their jurisdiction over every part of government, and repaired the damages and losses of those who suffered under the late tyranny, were no less exemplary in their gratitude than their justice. The Scots, from whose commotions the nation had reaped such great advantages, were treated with an unlimited generosity: their commissioners, of whom the most considerable were the earl of Rothes and the lord Loudon, were lodged in the city, and entertained there with great respect: most of the city magistrates, being Presbyterians,

\* With these laudable exertions in favor of public Liberty, they were guilty of an unjustifiable act of tyranny, in ordering a bailiff, who arrested a servant of one of the members of their house, to ride to the Old-Exchange, with his face to the horse's tail, and a paper on his head denoting his offence. They also interested themselves much on the trifling circumstance of answering on protestation of their honor, instead of the common practice of answering on oath. *MS. Journal of the Lords.*

held

held an intimate correspondence with them. St. Antholin's church was assigned for their devotions, in which they openly practised the Presbyterian form of worship: such was the propensity of the people towards a novelty from which they had been so rigorously restrained during the late power of the hierarchy, that multitudes of all ranks crowded to this conventicle. People came early in the morning, and kept their places the whole day, whilst others, who were excluded, clung to the doors and windows to catch the most distant sound of the voice of the preachers, who were heard with as much applause as if they had been endued with the eloquence of St. Paul\*. The parliament had signified disgust at the King's terming the Scots "Rebels;" the house of Commons had called one of their own members to the bar for using the same expression; and were so far from finding fault with the treaty at Rippon, that they allotted eighty thousand pounds a month for the subsistence of the two armies, and voted three hundred thousand pounds as a fit proportion for the friendly assistance, and relief of the losses and necessities of their dear brethren of Scotland†. Several subsidies, with a poll-tax, were from time to time voted to answer this charge;

\* Mr. Hume makes the following remark on this extravagance. All the eloquence of parliament, now well refined from pedantry, animated with the spirit of Liberty, and employed in such important interests, were not attended to with such insatiable avidity as were these lectures, delivered with ridiculous cant, and a provincial accent, full of barbarism and of ignorance. *Hume's Hist.* vol. I. p. 263.

† An order was entered for calling them our brethren of Scotland. The Scotch ministers who had been turned out of their livings by the covenanters were ordered to have no preferment, either in England or Ireland. *Smollett*, vol. VII. p. 180. *Rushworth*, vol. IV. p. 153.



Anno 1640. and as large sums had been advanced by individuals on the faith of parliament, they ordered these taxes to be paid to commissioners appointed by themselves. The dispute in regard to tonnage and poundage was now finally determined by the Commons: in the preamble to the bill, in which they granted these duties to the King, they asserted in the most positive terms their own right of bestowing them; and to divest the crown of the power to increase these impositions at pleasure, they gave them only for two months, and afterwards from time to time renewed their grant for very short periods \*.

During the reign of Edward IV. it had been enacted, that parliaments should be held once every year, or more frequently if necessary: in former times this had been the practice; but, during the reign of the Stewarts, these assemblies had never been called but when the revenue was unable to pay the expences of the government. To bring the constitution back to its first principles, to crush the wicked designs of the ministry, and prevent any farther attempt to reduce England to the state of France, the Commons passed a bill for triennial parliaments. It was strongly enforced by the lord Digby, in a very animated

\* At the same time when the Commons passed this bill of tonnage and poundage, they sent a message to the King, desiring leave to examine into his income and expences, that they might take measures to settle a competent revenue on him.

Hume observes, that the nature of commerce began now to be understood, the instructions given by the house of Commons to the committee which framed the bill of tonnage and poundage being as follows: That they should take care that the rates upon the home commodities might be as light as possible, and upon foreign commodities as heavy as trade would bear. *Hume*, vol. I. p. 269.

speech:

Speech: " If this bill miscarry, said he, I shall have left me no public hopes, and, once passed, I shall have no public fears. I shall be bold to say, Mr. Speaker, that an accumulation of all the public grievances, since Magna Charta, one upon another, unto that hour in which the Petition of Right passed into an act of parliament, would not amount to so oppressive, I am sure, not to so destructive, an height to the rights and properties of the subject, as one branch of our enslaving since the Petition of Right. The branch I mean is the judgment concerning ship-money. Let him, Mr. Speaker, who, for the unmatched oppression and enthralling of free subjects, in the time of the best King's reign, and in memory of the best laws enacted in favor of Liberty, can find a truer cause than the ruptures and intermissions of parliaments, let him, and him alone, be against the settling this bill for the frequent holding them. It is true, wicked ministers have been the proximate cause of our miseries, but the want of parliaments the primary, the efficient cause; ill ministers have made ill times, but that hath made ill ministers. Let his majesty hear our complaints never so patiently; let him purge away our grievances never so efficaciously; let him punish and dispel ill ministers never so exemplarily; let him make choice of good ones ever so exactly; if there be not a way settled to preserve and keep them good, the mischiefs and they will grow again, like Sampson's locks, and pull down the house upon our heads: believe it, Mr. Speaker, they will. It hath been a maxim among the wisest legislators, that whosoever means to settle good laws must proceed in them with a sinister opinion of all mankind, and suppose that whosoever is not wicked, it is for want only of

Anno 1640.  
Rushworth,  
vol IV. p.  
146, & seq.



Anno 1640. opportunity : it is that opportunity, Mr. Speaker, which we must take away ; which can never be done but by the frequency of parliaments. No state can wisely be confident of any public minister continuing good longer than the rod is over him. Let me appeal to all those who were present in this house at the agitation of the Petition of Right : of whose promotion to the management of affairs do they think the generality would, at that time, have had better hopes than of Mr. Noy and Sir Thomas Wentworth ? in that business, most keen and active patriots. The latter of them (to the eternal aggravation of his infamous treachery to the commonwealth be it spoken) the first mover and insister to have this clause added to the Petition of Right, “ That, for the comfort and safety of his subjects, his majesty would be pleased to declare his will and pleasure, that all his ministers should serve him according to the laws and statutes of the realm :” and yet, Mr. Speaker, to whom now can all the inundations upon our Liberties and Properties, under pretence of law, be attributed, more than to Noy ? and can those, and all other mischiefs whereby this monarchy hath been brought almost to the brink of destruction, be attributed so much to any as to that grand apostate to the commonwealth, the now lieutenant of Ireland ? The first I hope God hath forgiven in the other world ; and the latter must not hope to be pardoned in this, till he be dispatched to the other. Let every man consider those men as once they were ; the excellent law, for the security of the subject, enacted immediately before their coming to employment ; the goodness and virtue of the King they served ; and yet the high and public oppressions which, in his time, they have wrought ;  
and

and surely there is none but will conclude with me, that as the deficiency of parliaments has been the *causa causarum* of all the mischiefs of the present times, so the frequency of them is the sole catholic antidote which can preserve and secure the future from the like danger. Let no man object any derogation from the King's prerogative by it: His honor, his power, will be as conspicuous in commanding that a parliament shall assemble every third year, as in commanding a parliament to be called this or that year; there is more of majesty in ordaining primary and universal causes, than in the actuating subordinate effects. I doubt not but that glorious king Edward III. when he made those laws for the yearly calling of parliaments, did it with a right sense of his dignity and honor. The truth is, the Kings of England are never in their majestic sovereignty but in parliaments: Where is the power of imposing taxes? where is the power of restoring from incapacities? where is the legislative authority? marry, in the King, Mr. Speaker: but how? in the King circled in and inverted by his parliament. The King, out of parliament, hath a limited, a circumscribed authority; but, waited on by his parliament, no monarch in the East is so absolute in dispelling grievances. In chasing ill ministers, we do but dissipate clouds which may gather again; but in voting this bill, we shall perpetuate our sun, our sovereign, in his vertical, his noon-day lustre."

The bill found a ready passage through the upper house; and was at length, after some hesitation, passed by the King, to the great and universal joy of the public. It was entitled, "An Act for preventing Inconveniencies happening by the long Intermission of Parliaments," and bound

Bill for triennial parliaments.



Anno 1640, bound the chancellor, under severe penalties, to issue out writs by the third of September in every year: if the chancellor failed in his duty, any twelve or more of the Peers to exert this authority: in default of the Peers, the sheriffs, and other proper officers, were to summon the voters: and, in their default, the voters were to meet, and proceed to the election of members, in the same manner as if writs had been regularly issued from the crown; nor could the parliament, after it was assembled, be adjourned, prorogued, or dissolved, without their own consent, during the space of fifty days.

Besides these concessions, made to calm the rage of the people, Charles thought of weakening the popular party by bestowing gratifications on their leaders. By the advice of the marquis of Hamilton, a change of ministers was resolved on: the earls of Hertford, Bedford, Essex, Bristol, Warwick, with the lords Say, Saville, and Kimbolton, were sworn privy-counsellors. Juxon bishop of London, a creature of Laud, who had seconded all the arbitrary motions of his patron, both in the Star-chamber and High-commission court, desirous to screen himself from particular censure, solicited leave to resign the treasurer's staff: the earl of Bedford, a popular leader of great authority, was appointed to succeed him\*; Holles was to be made secretary of state in the place of Windebank; St. John solicitor-general in the place of Herbert, who was made attorney-general in the room of Banks, promoted to the Common-Pleas; Pym was to be chancellor of the Exchequer, in place of the lord Cottingtom, an

\* The earl of Bedford dying before he took possession of the office, it was committed to five commissioners. *May's Hist.* p. 119.

obnoxious minister, and a suspected Papist; who, Anno 1640. to escape prosecution, had resigned both that and the office of master of the Wards; the lord Say was to be gratified with this post; the earl of Essex was to be made governor, and Hamden tutor, to the prince. The uncorruptible virtue which was found in these men put a stop to most of the intended promotions: St. John, who was appointed solicitor-general, opposed the court with the same vigor and firmness as before; and those who were newly admitted of the privy-council, instead of vindicating the usurped power of that board, and drawing jurisdiction to themselves, gave the King on all occasions this honest advice, that he ought to be directed on every important point by his great council the parliament.

Charles, finding that instead of acquiring partizans he should be surrounded by troublesome monitors, if the intended change took place, let the design drop. It is thought that the leaders became more personally exasperated against him from this disappointment; but there are no grounds for this supposition, since Essex, who was gratified with the place of chamberlain in the room of Pembroke\*, continued as firm as the rest to his principles and party.

Some time in the beginning of this year the States-General had sent a splendid embassy to Charles, to propose such a league as should be found conducive to the interest of both nations: at the same time, the young prince of Orange demanded the princess Mary in marriage. Charles readily agreed to propositions so favorably presented to ingratiate himself with his people: He had the

\* Pembroke was turned out for uniting himself to the popular party.



Anno 1640. complaisance to impart at this time the proposal to the house of Peers, and ask their advice on it. The Peers testified their full approbation, and the marriage was concluded, to the general satisfaction of the public. The princess at this time was not above twelve years of age.

Notwithstanding the apparent reformation in the King's conduct, he could not obtain the confidence of the public: His character was totally deficient in the qualities of honor and integrity; his word had been often broken, or meanly evaded; and in all transactions with his people he had attempted deceit. The concessions he had lately made were known to be opposite to his principles, his judgment, and his inclinations, and considered as the effect of his necessitous circumstances. The parliament was determined to make a proper use of those necessities.

Anno 1641.  
Trial of  
Strafford.

Strafford's impeachment had been all this time preparing, and was now carried up the house of Lords: it consisted of twenty-eight articles, and regarded his conduct as president of the council of York, as governor of Ireland, as counsellor and commander in England. The articles in regard to Ireland related to arbitrary acts of jurisdiction, governing by martial law, billeting soldiers, enforcing obedience to arbitrary decrees by military power, deciding causes before the council which ought to have been decided in the courts of law \*, issuing pro-

\* Among other cases of this sort, he was charged with having caused an order of the council to be entered against the lady Hibbotts, whereby she was obliged to relinquish an estate which was conveyed to Sir Robert Meredith for the use of Strafford. On the lady's hesitating to perform the order, Strafford said, "If you do not perform it by such a day, I will send you to the Castle, and there you shall lie a month, at the end of which you shall be brought to the board, and have

clamations, and punishing their infraction, enforcing arbitrary oaths\*, setting arbitrary impositions upon merchandize, granting exclusive licences for importing pipe-staves, making monopolies of tobacco and other commodities, and exercising cruelties on those who disputed these points. He was charged with obtaining from the King, that no complaint of injustice done in Ireland should be received in England, unless the party had first made their application to him; and that, to prevent any molestation in his tyrannical course, he put out a proclamation, forbidding any to depart the realm without licence from himself†: he was charged with raising to

have five hundred pounds laid on your head; at another month's end a thousand more, and you shall go back to the Castle again; and after that, a third month's imprisonment, and your fine increased. Your estate, I know, is very great; and if it were ten times bigger I will make it crack." *Rushworth*, vol. VIII. p. 221. 227.

\* The oath imposed on the Scots was ushered in with the specious introduction of a petition from some of the individuals of that nation, that they might, by such a testimony of their allegiance, purge themselves from the imputation of disaffection, which they might otherwise incur from the treasonable conduct of their countrymen the covenanters. The procuring such a petition Strafford proposed at the Irish council-table; and the men of fortune of the Scotch nation were sent for immediately to Dublin. On Strafford's telling them, that it was expected they should do something to vindicate themselves from any aspersions, which might be flung on them, the bishop of Downe and Rasso proposed the petitioning that they might join in an oath. Sir James Montgomery making some objections to the slavish conclusions in the oath, Strafford answered, "Sir James, you may petition, or not, as you will; but if you do not, or who doth not, shall do worse." The bishop of Rasso drew the oath, and the bishop of Downe complained that it was too cold and mean. *Rushworth*, vol. VIII.

† The committees from the Irish parliament could not obtain leave to come over to England, till, by the desire of the English parliament, the restraint which Strafford had laid on the inhabitants of that kingdom was taken off, and a free

com.



Anno 1641. his own use an hundred thousand pounds *per* year by such acts of oppression \*. He was charged with giving power to the bishop of Downe and Connor, by a general warrant under his own hand, to attach and arrest the bodies of all such of the meaner sort, who, after citation, should either refuse to appear, or appearing should omit to fulfil, or undergo the decrees given against them †. He was accused of restoring many Popish religious houses, of raising an army of Papists, whom he paid punctually, and admitted to exercise their religion, whilst the Protestant soldiers were unpaid. These were the substance of the articles which related to Ireland.

The crimes which he was charged with as president of the council of York, and counsellor, were, That he, being made president of the King's council in the Northern parts, had put into execution instructions against law, which never had been practised by other presidents, exercised an exorbitant and illegal power over his majesty's subjects in those parts, and fined and imprisoned many to their ruin; and, that he might exercise this unjust power with the greater licence, did procure farther directions, by which he was invested with a more oppressive and unlawful au-

communication opened between the two nations. *Russworth*, vol. VIII. p. 469.

\* After Strafford was impeached, the Irish house of Commons seized the books and accounts of the farmers of tobacco, of which the earl of Strafford was chief, discharged their officers and collectors, ordered the keepers of their magazines to give a detail of the debts owing, and confiscated the whole, to the lord Strafford's damage above eighty thousand pounds. *Carte's Life of Ormond*, vol. I. p. 127.

† This commission was executed with the additional cruelty of wounding, beating, and imprisonment, *Russworth*, vol. VIII. p. 238.

thority

thority than any of his predecessors. He was accused of saying publicly at the assizes held for the county of York, that the King's little finger should be heavier than the loins of the law\*. The twentieth and twenty-first, second, third, fourth, fifth, and sixth, articles of his impeachment related to his conduct in the capacity of counsellor: That he had incensed the King against the Scots, advised him to an offensive war, and against an accommodation; that he had told the King, if the parliament did not answer his expectation, he would serve him in another way. He was accused of raising an army in Ireland of eight thousand foot and one thousand horse; of publicly declaring in England, that his majesty should try first the parliament here, and if that did not supply him according to his occasions, he might use his prerogative as he pleased, to levy what he needed; he should be acquitted both by God and man if he supplied himself, though against the will of his subjects: that he had advised the King to dissolve the last parliament, and told him, that having tried the affections of his people, he was absolved from all rule of government, and might do what power would admit; that he had an army in Ireland which he might employ to reduce this kingdom to obedience. He was also accused of advising the rigorous levying ship-money; of telling the aldermen of London, that they deserved to be put to fine and ransom, and that no good would be done with them till an example was made of them, and

\* It was on the occasion of his laying a command on Sir David Fowles to repair a bridge: Sir David told him, he could not do it by law. On this Strafford replied, "Sir, some are all for law and lawyers; but you shall know that the King's little finger is heavier than the loins of the law," *Rushworth*, vol. VIII. p. 712.



Anno 1641. that they were laid up by the heels, and some of them hanged. The twenty-sixth article charges him with having counselled the King to seize the bullion and the money in the Mint \*, and to debase the coin by mixing it with brass; and that on the officers of the Mint giving him reasons against debasing the money, he told them, that the French king did use to send commissaries of horse with commission to examine mens property, that they might know what to levy on them; and that he turned to the lord Cottington, and said, that it was a point worthy his lordship's consideration.

The crimes charged against him as a commander in the English army were, the levying by force, in the late Northern expedition, eightpence † *per* day from each of the inhabitants of the county of York who were possessed of property; with having lost Newcastle by neglect; and with being the cause of the defeat of the English at Newburn, by peremptorily commanding the lord Conway to fight the Scots, though Conway had represented them to be much superior to the troops under his command. The Commons had applied to the King, that he would allow their committee to examine privy-coun-

\* On seizing the money in the Mint, Strafford said, that the merchants ought to bear the damage; though they thought it a strange business here, yet beyond sea it was not thought so; if they speeded amiss they might thank themselves; they were more ready to help the rebels than to give his majesty his due: fourteen thousand pounds they owed for ship-money. *Russworth*, vol. VIII.

† This tax was raised by military force. Warrants were given out for paying it, on pain of death. Strafford pretended, that he acted in this affair with the consent of the council of Peers: The truth of this assertion those lords denied by a solemn protestation in parliament. *Russworth*, vol. VIII. p. 37, & *seq.* 616.

fellors

fellors with regard to opinions delivered at the board: This the King was persuaded to assent to, lest the denial should occasion very black suspicions\*: but the concession had an effect he did not foresee: It struck an awe on the licentious debates of that board, where every member, without fear of enquiry and punishment, used freely to propose illegal and treasonable expedients for supporting the tyranny of the crown.

Strafford having, with his power, lost his influence over the parliament of Ireland, that assembly at this period exerted a freedom of debate, and a vigor of action, which they had never practised: Each house sent over into England a committee to assist in the prosecution of their governor †; put a stop to the manner of levying subsidies, which had been forced upon them by Strafford ‡; and carried up impeachments against Sir Richard Bolton their present chancellor, Sir Gerald Lowther their chief-justice, and Bramhall bishop of Derry, all of them the crea-

\* The Lords had given leave, that the members of their house should be examined upon oath.

† Not one individual of the Irish clergy had spirit enough to exhibit a complaint against him for the arbitrary manner in which he enforced the English canons on their church; so that black part of his conduct was not in his charge.

‡ This tax, according to the manner of levying it, dictated by Strafford, was so heavy, that the earl of Corke in one year paid thirty-six hundred pounds for his own share. The Irish house of Commons having made an order for the manner of levying subsidies in future, Charles, in imitation of the behavior of king James to the English parliament, commanded the order to be torn out of the journals. He afterwards thought fit to give way to restoring the order, and agreed that the subsidies should be assessed in the manner insisted on by the Commons. *Carte's Life of Ormond*, vol. I. p. 100. 107. 118.



Anno 1641. tures of the lieutenant's promoting, and the tools of his tyranny\*.

Westminster-Hall was pitched on by the parliament for Strafford's trial: Scaffolds were erected, where both houses sat; the Lords as the judges, and the Commons as the accusers †. The earl of Arundel, in the absence of the lord-keeper Littleton, who was sick ‡, was appointed high-steward to preside in the court ||. He was thought at this time to retain a sharp resentment against Strafford for disappointing him of some lands in Ireland, to which he imagined he had a family claim. The Commons objected to the bishops having a voice in the judgment given on Strafford, because they were forbid by an old canon to assist in any trial of life. This canon had never yet been adhered to; but, on the present occasion, they did not think fit to irritate farther the anger of the Commons, nor venture the rage of the public, by openly supporting Strafford; of themselves they thought proper to withdraw:

\* All the articles of grievances debated in the parliament of Ireland were opposed by the whole bench of bishops there. The bishop of Meath moved, that as all the lords spiritual were against the grievances, the naming them in their order might be spared. *Carte's Life of Ormond*, vol. I. p. 121.

† The Commons sat bare-headed, whilst the Lords were covered. This the Commons condescended to for the following reason: Because they sat as a committee only of the house of Commons, whilst the Lords represented their whole house. The Commons declared, they might come as a house if they pleased. They resolved, "That if the earl of Strafford had liberty given him to speak in his defence, before the managers appointed to manage the evidence entered into the management of it, they should forbear to proceed till they had farther orders from the house." *Rushworth*, vol. VIII. p. 40.

‡ On Finch's flight, he was promoted to the seals, and created a baron.

|| The earl of Lindsey was high-constable.

And

And thus the criminal lost an advantage which might have put some stop to the proceedings against his life. The Commons also voted, that the new-created peers ought to have no voice at this trial, because the accusation being agreed to whilst they were Commoners, their consent to it was implied with that of the Commons of England; and that they would be in the double capacity of judge and accuser. This was a very wise precaution, many Commoners having been made peers on purpose to favor Strafford. The majority of this number assented to the determination of the Commons; but Sir Francis Seymour, a quondam patriot, who had gotten a title on this occasion, with some others, kept their seats, and the matter was no farther debated\*.

Westminster-Hall was crouded with spectators; a close gallery was prepared for the King and queen, who attended during the whole trial, which lasted eighteen days. The managers for the Commons were, lord Digby, Sir Walter Earle, John Pym, John Hamden, Oliver St. John, Geoffrey Palmer, John Maynard, John Glyn, Esqrs. They supported the impeachment by a variety of particular instances of an exorbitant exertion of arbitrary power. The first day was spent in reading the impeachment; on the second day Mr. Pym opened the pleadings. "Strafford boasts, said this sagacious nervous ora-

\* The Lords resolved, that no use should be made of proxies on Strafford's trial. It was determined, that council should not be admitted him as to matters of fact, but only as to matters of law. The Lords reserved to themselves the liberty of judging what were matters of fact, and what matters of law; and the Commons declared, that no proceedings in this case should be a precedent to their prejudice.



Anno 1641. tor, that he was a means of calling a parliament: My lords, parliaments without parliamentary liberties are but a fair and plausible way into bondage. Sir Pierce Crosby, for speaking against a bill in the house of Commons, was sequestered from the council-table, and committed to prison. Sir John Clotworthy was threatened that he should lose a lease he had. Mr. Barnwell and two other gentlemen were threatened they should have troops of horse put upon them for speaking in the house. Proxies by dozens were given. My lords, parliaments, coming in with these circumstances, they be grievances, mischiefs, and miseries; no works of thanks and honor. He says, he has executed his commission with moderation. When you find so many men imprisoned, some adjudged to death, some executed without law; when you find so many public rapines on the state; soldiers sent to make good his decrees; so many whippings in defence of monopolies; so many jurors fined for not giving verdicts on his side; men of quality disgraced, set in the pillory, and wearing papers; can you think there was moderation? If you compare his courses with other parts of the world, he will be found beyond all in tyranny and harshness; but if you compare them with his mind and disposition, perhaps there was moderation: the habit of cruelty in himself, no doubt, is more perfect than any act of cruelty he hath committed. If this be his moderation, I may truly say that is verified in him, "The mercies of the wicked are cruel." For his honorable way of increasing the King's revenue; if monopolies, if vexation of the subject, be honorable ways, we shall leave that to your lordships to judge. Most of his increases have been made upon monopolies. It is

true, there is another way of bargaining; but it hath been mixed with rapine, rigor, and injustice: men have been driven to resign their estates. Is this a just way of improving a king's revenue? That I shall submit to your lordships\*."

In Strafford's charge, as delivered by the managers, it appeared, that in all his employments he had exercised very arbitrary acts of power, and his whole conduct since he had been invested with authority had been highly insolent†. Even in

\* Mr. Maynard, in his pleadings against Strafford, asserted, that treason against the person of the prince fell short of the treasons he had committed: One prince might be succeeded by another; but when Law and Justice were taken from the throne, and Will placed in their stead, there was no hope of remedy. Mr. Stroud said, that to incite a prince to tyrannical acts was a greater offence than to kill him: he might die otherwise with a fair reputation.

Strafford was totally ignorant of the transactions which had passed in Ireland: when the Irish remonstrance was produced at his trial, and that it appeared that the house of Commons there had voted him guilty of high-treason, he exclaimed, in the bitterness of his disappointment, that there was a conspiracy to take away his life. He was reprehended for this by the managers, and obliged to ask pardon on his knees. Besides those complaints of the Irish set forth in Strafford's impeachment, the Lords, by a committee of their house, complained to the King, that they were obliged, on their absence from parliament, to leave their proxies with the officers of state. *Rusworth*, vol. VIII. *Guthrie*. *Carte's Life of Ormond*.

† Among the many instances of imperious expressions brought against him are the following. On the occasion of a petition being presented to him, desiring the benefit of the graces, he said in full parliament, "You are a conquered nation, and must expect laws as from a conqueror;" adding, "The instructions given in king James's time, for the government of the courts of justice in this kingdom, are instructions contrived and procured by a company of narrow-hearted commissioners, who knew not what belongs to government." He told the mayor and aldermen of Dublin, on a representation of theirs that the citizens of that town were by



Anno 1641. Ireland, the government of which had been ever tyrannical, he had out-gone former governors,

law exempted from the maintaining foldiers, that their antiquated, worm-eaten charters were nothing worth; the King might do what he pleased. On lord Corke's commencing a suit at law for the recovery of a possession out of which he had been put by Strafford's order, he said to him, "Call in your writs, for if you do not I will clap you in the Castle. I will not have my orders disputed by law nor lawyers." On the same nobleman's being prosecuted for breaking what was termed an Act of State, he pleaded, that the act was made in king James's time; and as it had never been published, nor had he ever heard of it, he conceived there could be no reason for the prosecution: to this Strafford answered, "I tell you, my lord, as great as you are, I will make you and all the subjects of Ireland know that any act of state, made or to be made, shall be as binding to you during my government as an act of parliament." One Martin a lawyer, in his pleading a cause at the council-table, said, he had the authority of an act of parliament for what he asserted; on this Strafford replied, "Sir, I will make you know that an act of this board shall be as good as any statute." On the Irish parliament flinging out an act which made it felony to have gunpowder without licence, Strafford said, "That he would make that, and other bills they had voted against, acts of state, which should be as binding." Strafford declared publicly at his own table, "That if he lived he would make an act of state to be of equal power with an act of parliament." Sir Pierce Crosby deposed, that this declaration was the occasion of the breach between him and the lieutenant. Strafford, on the fining Stewart and Grey very heavily, and imprisoning them for not taking the oath he had imposed on the Scots in Ireland, publicly declared, "That they were favorably dealt with; that it was high-treason not to take the oath, and not to take it in the sense that they were to be obedient to the ecclesiastical ceremonies of the church, either established or to be established; that he would prosecute to the blood those who resisted; the Scots who hesitated on the taking it were traitors and rebels; and if the King would honor him so much as to send him back, he would eradicate, root and branch, out of the kingdom of Ireland, all of that nation who had any such scruples."

Had the King succeeded in his schemes, Strafford would have had full power to execute his malicious intentions on the Scots; for, according to Carte, he was, by commission under the

and had been guilty of many unprecedented acts of power. Anno 1641.

His answer is hardly plausible, though drawn up with art \*: He could not deny the illegality

the great-seal, made captain-general of all the King's forces in Ireland, with power to lead them into Scotland, to attack and suppress the rebels, and pardon or destroy, as he should think fit. *Rushworth*, vol. VIII. *Carte's Life of Ormond*, p. 103.

\* To his arbitrary decisions against law he pleaded, that they were errors in judgment; and errors in judgment were not treason. To the charge of obtaining an enlargement of his jurisdiction, that it was a chaste ambition for a man to desire as much power as he could get, that he might be enabled to do the more good. In excuse for what he had asserted concerning the Dublin-charter, he alleged, the aldermen would not be brought to obey the orders of the board, but stood on their charters. The managers for the house of Commons replied, that this was a confession that the charter of the subjects' liberty had been brought to the council-table, and judged there, though the council had no power to declare the validity or invalidity of charters. To the general charge of words, Strafford pleaded, that it was hard he should be brought in judgment for mere words, and many of them spoken a long time ago: this was an absurd plea, since there was no other reason for his not having been brought to judgment when those offences were committed, but his being at that time too powerful: the managers reminded him, that he had condemned Mountnorris to death for words of little importance, spoken against himself, an individual; whereas the words with which he was charged were treason against the constitution and liberties of the subject. To the charge of imposing arbitrary oaths, he pleaded the King's command; it was an act of obedience, and he had rather suffer in obeying his majesty than dispute his commands: if that act of imposing the oath was treason, notwithstanding the particular circumstance of the King's affairs, he should be ready to sin again, if the occasion offered: To this Mr. Stroud shrewdly replied, he did believe him, and that made him consider a heavy thing which once befel England, when Gaveston had opportunity to repeat his bold offences. Mr. Whitlock observed, that he had made his words good concerning an act of state; for no power could legally impose an oath but an act of parliament. To the charge of fining, imprisoning, and whipping, for



Anno 1641. of his actions, nor efface an air of insolence which ran through all his proceedings. Nothing can be more puerile than his defence on the main

disobeying proclamations, Strafford said, that he conceived it was a fair and equitable punishment for so foul a crime. To the charge of enforcing his commands by military power, he pleaded, that he had only done it to ordinary fellows. To the charge of his laying a tax on the county of York, and that this, and the transactions of the like nature in Ireland, were levying war on the King's subjects, and consequently construed, in the eye of the law, as levying war on the King, he said, he had done these things for the King's honor and authority, therefore it could be no levying of war on the King. For his transactions of that kind in Ireland, he said, that a statute of the tenth of Hen. VII. declared, that no war or peace should be made but by the deputy's licence, and that the deputy had power to make war whenever he pleased: To the first plea the managers replied, that though there might be no intent on the King's person, yet, if against his people, such a levying of war was treason; homicide of a mean subject is against the King's crown and dignity, because against the protection and safety of his people: To the second, that it was true, in case of hostility or rebellion, the deputy might make a defensive war; but to do it in time of peace, on the King's subjects under the government of his laws, was to make war on the sovereign power which did protect them. To the charge of advising the levying ship-money, Strafford alleged, that he had advised no other than had been used three or four years before his coming into the kingdom; there had been a judgment given for it; it was not for him to dispute the opinion of the judges, but with humility to submit to better judgment than his own; he had learnt in his own practice, by reason of his weakness, not to be wiser than his teachers, or to pretend to know more in other mens professions than they knew themselves: "We who are not bound to the profession of the law, said he, are not bound to speak the law; we can tell what in our hearts is honorable and just, but what is legal is another man's business." Surely Strafford was not of this modest opinion when he argued, that gentlemen were as capable of presiding over courts of justice as lawyers; when he disdained to see gown-men put such a prejudice upon all sorts of men, as if none were worthy to be trusted with administration of justice but themselves; when he advised Laud to rule the lawyers in England as he did in Ireland. *Vide* p. 162. 183. 184. of this vol.

article,

article, that of having advised the King to proceed in the way of arms; and, if he was denied money by parliament, to raise it by other means\*.

Anno 1641.

\* Usher the lord-primate of Ireland swore, that he found Strafford of an opinion, that the King might use his prerogative if he pleased. The lord Conway swore, that he heard Strafford express himself, that the King might use his prerogative if he pleased. Sir Henry Vane swore, that to the best of his remembrance he heard Strafford say, that, if the parliament did not succeed, he would be ready to assist his majesty any other way. The lord Newburgh deposed, that he heard Strafford say, that as the parliament had not supplied the King, he might take other courses for the defence of the kingdom. The lord Holland deposed, that Strafford said, that as the parliament had denied the King, it gave him advantage to supply himself other ways. The earl of Bristol deposed, that he heard Strafford say, that *salus reipublicæ* was *suprema lex*; the King must not suffer himself to be mastered by the forwardness and undutifulness of his people. These different sets of words have but one meaning, and amount to the principle, That the King might raise money, and levy armies, on the strength of prerogative alone. To this strong conviction Strafford had no other reply, than that each different set of words was only sworn by one evidence. "My lords, said he, on the words sworn by the primate it is to be believed, and it were a great offence in any man to think otherwise, that in this case any thing can please the King, he is so gracious and good, but what shall be just and lawful; and then there is no doubt but, so far as with justice and lawfulness, he may use his prerogative in case of imminent danger, when other means fail." To the words sworn by lord Conway he said, "Truly, my lords, if I should acknowledge these words, I do not see how they can be capital in my case: it is a very natural motion for a man to preserve himself, though it be to the disliking of another; and why a king should not do it, as well as a subject, is such a prerogative of kings as I never yet heard of. For I thought, though they had been gods on earth, yet they are men, and have affections as men, and should preserve themselves, being not only accountable for themselves to God Almighty, but also for their subjects, whose good and benefit is wrapped up in theirs." Strafford farther alleged in his defence, that he thought the King had an absolute power given him by God Almighty for preserving himself and his people, which could not be taken from him by others, nor by himself: the prerogative



Anno 1641. Notwithstanding the atrociousness of the facts charged against him, and proved by a number of

rogative of the crown was the first in the table of the fundamental laws of the land; it had something more imprinted on it than the property of the subject, it had a divinity imprinted on it; kings were gods on earth; higher prerogatives than can be said, or found to be spoken, of the property or liberty of the subject. To the documents given at the council-table, that the King having tried the affections of his people, he was loose and absolved from the rules of government, and might do what power would admit; and that his majesty had tried all ways and was refused, and should be acquitted both before God and men; and that he had an army which he might employ to reduce this kingdom to obedience; Strafford acknowledged every part of the charge, but that of his advising the King to land the Irish army in England, and this because no other counsellor at the table remembered those words but Sir Henry Vane. On this part of his charge lord Ranelagh deposed, that on directions being left by Strafford to raise a large army in Ireland, his creature and bosom-friend Sir George Ratcliffe said, The King had an army; it was his own fault if he wanted money. Sir Thomas Barrington deposed, that Sir George Wentworth, Strafford's brother, immediately after the dissolution of the last parliament, declared, that the commonwealth of England would never be well till it was conquered again. And lord Ranelagh said, that himself and other counsellors had conceived great apprehensions that the Irish army was to be used to raise money forcibly in England. For the words he confessed, in their nature as treasonable as those he denied, he made the following weak apology: That it was spoken with a secret reservation, that it ought to be done fairly; that these were conditions understood when we spoke of the sacred majesty of kings; that this implied it could not be high-treason to tell the King, that, having tried the affections of his people, he was loose and absolved from the rules of government, and might do what power would admit: there was an argument which cleared the intendment and the meaning of the words, which was, that nothing had been done by the King or the council against the laws and customs of the realm.

Rushworth,  
vol. VIII.  
p. 565.

This childish argument, supported by so ridiculous an assertion, Strafford, in the course of his pleadings, contradicts, by saying, that he advised the King in a proper time to vindicate the property and liberty of the subject from any ill prejudice which might fall from such a precedent; which ad-

vice,

able testimonies and the whole tenor of his conduct and conversation, notwithstanding the fri-

vice, if true, implied an intention to some unconstitutional violent act of power. Strafford said, that he had heard an opinion might make an heretic, but never that it could make a traitor. This observation is little to the purpose; since, though the opinion of a man, given by way of argument, cannot make a traitor, yet an opinion given by a statesman, as advice to a prince, may certainly be treasonable. Strafford's plea on that atrocious fact of condemning the lord Mountnorris turned against himself. He made martial law, a thing contrary to the Petition of Right, which according to the privileges of the nation was to take place in Ireland, an instrument of his vengeance to effect what he acknowledges he thought cruel, and which could be done by no other law. Thus he satisfied his pride, and shewed, that no officer in the army, under his displeasure, had other resource to save himself from death than his clemency. Besides this sentence passed on Mountnorris, Strafford had by martial law condemned and executed one Denwit, a soldier, for stealing a piece of beef, though he was advised by many members of the court-martial to try him by common law. His arbitrary proceedings against the late chancellor Loftus he endeavored to throw entirely on the King; appealed to an order he had obtained from that easy monarch, that the cause should be determined by the deputy and council of Ireland; and alleged, that their decree had been afterwards confirmed by his majesty.

To obtain the sanction of the royal authority for what he had acted against the chancellor, he made use of arguments which never failed to have weight with Charles: "If the honor and justice of this state, said he, be not vigorously borne forth against the chancellor's untruths and incivilities, the regal authority will perchance be as much invaded, as roughly dealt with, in this kingdom as in other places; whereas hitherto, God be praised, no king can be more absolute than your majesty is among us." Farther he told the King, that the chancellor's offence was an high and immediate contempt against his majesty's own power and greatness; that his churlish will presumed to contend for mastery with royalty; that he (Strafford) contended for his majesty's authority, unmixed with any private interest of his own. It was the distemper of the times to dispute the higher powers; God and his majesty were only able to correct and stay the madness. He assured the King, that all his ministers took the



Anno 1647. volousness of his defence, a certain blandishment of behavior which he assumed on this occasion; a certain air of importance misconstrued into dignity; a certain speciousness of manner, mistaken for decency and humility; these, with the particular circumstances of his situation, reduced in an instant from the summit of power and splendor, to plead as a criminal at the bar of a court of justice, produced sentiments in his favor from the weak part of the audience: the women, in particular, not comprehending, or inattentive to, the solidity of the arguments urged by the Commons, deaf to the eloquence and ability of the managers, attended with pity and partiality to the unhappy prisoner. Besides the favorable sentiments which he had the art to excite in his spectators, through the whole course of his pleadings he endeavored to prejudice his judges in his favor: his expressions were full of veneration for the body of Peers, and he insinuated that their privileges were interested in his fate. Mr. Glyn noticed this management, and told the Lords, that though the prisoner had magnified the Peers of the realm almost to idolatry, yet when he was in his kingdom in Ireland, and had power over them, he shewed the respect he had to the Peers of the kingdom, judging some to death, com-

the business of the chancellor extremely to heart, and rested confident his majesty would in his wisdom preserve his greatness and authority. This cant had such an effect on the King, that though he had given the chancellor leave to come over to make an appeal, and receive his dismissal by an especial warrant from himself, yet he countermanded this, and gave way to the deputy's keeping the chancellor under restraint till he had asked leave of the board to repair to England, and had signed a submission and confession that he had behaved ill and impertinently to the deputy. *Rusworth*, vol. VIII. *Strafford's Letters*.

mitting

mitting others to prison, and seizing their estates. Anno 1641.

The Commons had unquestionably proved an intention in Strafford to subvert the fundamental laws of the kingdom: this is not within the description of treason in the statute of the twenty-fifth of Edw. III. They proceeded against him in a salvo of that act, which provides, that the King and parliament have power of determining what is treason, what not. They therefore voted, that the facts proved upon him were treasonable.

On the thirteenth of April, he was called to the bar, and commanded by the Lords to sum up his evidence: This he did in a long speech, the argumentative part of which is certainly very weak; and his endeavor to extenuate his crimes very impotent. His arbitrary extra-judicial acts, he called an over-exercising of jurisdiction: It was not high-treason in a judge to enlarge his jurisdiction. "But, my lords, said he, if all these had been done without any manner of authority, it had not been a subversion, but rather a diversion of the law; so long as I keep the rule of the law, and do the same thing which another man does in a more legal way, I mean in a more warrantable place, I say, my doing of the same thing in an improper place, is not a subversion, but a diversion of the law\*. If you will bring in the Thames about Lambeth, to come in again below the bridge, the river is the same, though the course be diverted to another place: so the fundamental law is the same, though the course be diverted to another place. I say, the funda-

\* To divert a legal and just proceeding into an arbitrary one, Mr. Glyn observed, was not only turning but corrupting the clear and crystal streams of legal justice to muddy waters of bitterness and death.



Anno 1641. mental law is the same, only it is carried in another pipe."

The conclusion of Strafford's speech, in which he endeavored to repel the principal arguments on which the bill depending in the house of Commons was founded, has been so much extolled for its style and weight of reason, that the author of an history of these times might be accused of partiality in omitting it. "Where has this species of guilt been so long concealed, said he? where has this fire been so long buried, during so many centuries, that no smoke should appear till it burst out at once to consume me and my children? Better it were to live under no law at all, and, by the maxims of cautious prudence, to conform ourselves the best we can to the arbitrary will of a master, than fancy we have a law on which we can rely, and find at last that this law shall inflict a punishment precedent to the promulgation, and try us by maxims unheard-of till the very moment of prosecution. If I sail on the Thames, and split my vessel on an anchor, in case there be no buoy to give warning the party shall pay me damages: but if the anchor is marked out, then is the striking on it at my own peril. Where is the mark set upon this crime? where is the token by which I should discover it? it has lain concealed under water, and no human prudence, no human innocence, can save me from the destruction with which I am here threatened. It is now full two hundred and forty years since treasons were defined; and so long has it been since any man was touched to this extent, upon this crime, before myself. We have lived, my Lords, happily to ourselves at home; we have lived gloriously abroad to the world: let us be content with what our fathers have left us; let not our ambi-

ambition carry us to be more learned than they were in those killing and destructive arts. Great wisdom it will be in your Lordships, and just providence for yourselves, for your posterities, for the whole kingdom, to cast from you into the fire these bloody and mysterious volumes of arbitrary and constructive treasons, as the primitive Christians did their books of curious arts, and betake yourselves to the plain letter of the statute, which tells you where the crime is, and points out to you the path by which you may avoid it. Let us not, to our own destruction, awake these sleeping lions, by rattling up a company of old records, which have lain for so many ages by the wall, forgotten and neglected. To all my afflictions add not this, my Lords (the most severe of any) that I, for my other sins, not for my treasons, be the means of introducing a precedent so pernicious to the laws and liberties of my country. However these gentlemen at the bar say they speak for the commonwealth; and they believe so; yet, under favor, in this particular it is I who speak for the commonwealth: precedents like those endeavored to be established against me, must draw along such inconveniencies and miseries, that in a few years the kingdom will be in the condition expressed in a statute of Henry IV. and no man shall know by what rule to govern his words and actions. Impose not, my lords, difficulties insurmountable upon ministers of state, nor disable them from serving with cheerfulness their King and country. If you examine them, and under such severe penalties, by every grain, by every little weight, the scrutiny will be intolerable; the public affairs of the kingdom must be left waste, and no wise man, who has any honor or fortune to lose, will ever engage himself



Anno 1641. himself in such dreadful, such unknown perils.

My lords, I have now troubled your lordships a great deal longer than I should have done, were it not for the interest of these pledges, which a saint in Heaven has left me. I should be loth----

Here Strafford pointed to his children, and his tears stopped his speech. "What I forfeit for myself is nothing; but I confess, that my indiscretion should forfeit for them, it wounds me very deeply. You will be pleased to pardon my infirmity: Something I should have said; but I see I shall not be able, and therefore I shall leave it. And now, my Lords, I thank God I have been, by his good blessing, sufficiently instructed in the extreme vanity of all temporary enjoyments, compared to the importance of our eternal duration. And so, my Lords, even so with all humility, and with all tranquility of mind, I submit clearly and freely to your judgments; and whether that righteous doom shall be life or death, I shall repose myself, full of gratitude and confidence, in the arms of the great Author of my existence."

Strafford's situation is very pathetically expressed in this conclusion of his speech; but sure it is very deficient in argument; since it is apparent that a precedent of so great a criminal being condemned by the whole power of the legislature, could not, in its consequences, be so dangerous to the public, or the liberty of individuals, as the example of crimes of so black a nature, and so destructive to the commonwealth, being committed with impunity. An honest and wise man would never fear the severest scrutiny; and the weak and the wicked being deterred from accepting public offices, or, if they did accept them, being kept within just bounds by the terrors of  
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an after-enquiry and punishment, must be of infinite service to the well-governing the affairs of the kingdom. Anno 1641.

Mr. Pym, in language manly and pathetic, breathing sentiments which nothing but the spirit of Liberty could inspire, closed the pleadings of the Commons. He affirmed, that it had been clearly proved that the earl of Strafford had endeavored, by his words, actions, and counsels, to subvert the fundamental laws of England and Ireland; and to introduce an arbitrary and tyrannical government. He then proceeded to shew the heinousness of the offence: "The law, said he, is the safe-guard, the custody of all private interest. Your honors, your lives, your liberties, your estates, are all in the keeping of the law. There cannot be a reason more pregnant or fruitful in treason, than that given by Strafford for overturning law in Ireland\*: It was a conquered country! No doubt, the conqueror may give what laws he pleases to those who are conquered; but if the succeeding pacts and agreements do not limit and restrain that right, what people can be secure? England hath been conquered, and Wales hath been conquered, and, by this reason, will be in little better case than Ireland. If the King, by the right of a conqueror, gives laws to his people, shall not the people, by the same reason, be restored to the right of the conquered, to recover their freedom if they can?" In the course of this excellent speech Mr. Pym observed, that the greatness of a king did not consist in domineering over his subjects at home, but to incline

\* Strafford in his defence had said, that Ireland was a conquered country, and that his illegal exertions there were to maintain the King's absolute sovereignty.



Anno 1641

and dispose the affairs of other states and nations for the good of mankind, and the peculiar advantage of his own people; that this kind of greatness had been impaired by the late mischievous counsels. “As for industry and valor, continued he, who will take pains for that wherein he hath no other interest, but what is subject to the will of another? The antient encouragement for men to hazard their persons in defence of their country was, that they fought *pro aris & focis*, for their religion and their houses; but, by the arbitrary sway practised in Ireland, and counselled here, no man had a certainty either of religion or a house. Besides, their tyrannical courses have an ill operation on the courage of a nation: a servile condition begets in men a slavish temper and disposition. Those who live so much under the whip and the pillory, and such engines as were frequently used by the earl of Strafford, may have the dregs of valor, fullness and stubbornness, but those noble and gallant affections which put men on brave attempts for the preservation and enlargement of a kingdom, they are hardly capable of. Shall it be treason to embase the King’s coin, and must it not be a greater treason to embase the spirits of his subjects, and to set a stamp of servitude upon them?” Strafford’s crimes, Mr. Pym said, were contrary to the covenant between the King and his people, confirmed by oath on both sides. He observed, that justice Thorpe was put to death for bribery, because in committing that injustice he had broken the King’s oath, that solemn obligation which is the security to the whole kingdom. Strafford’s offence was contrary to the end of government, which was, to prevent oppressions, to restrain the violence of great men, to open the passages of justice with

indif-

Indifferency to all. The end of government was, Anno 1641, that virtue should be cherished, vice suppressed; but where arbitrary power was set up, a way was open for the advancement and encouragement of evil: such men as were apt for the exercise and maintenance of that power were only capable of preferment, whilst honest men, who would not be instruments of unjust and illegal commands, were not only not passable for employment, but subject to jealousy and danger. The end of government was, that all accidents and designs, all counsels and events, should be improved to the public good; but arbitrary power was apt to dispose all for maintenance of itself. The wisdom of the council-table, the authority of the courts of justice, the industry of the officers of the crown, the learning of the divines, the jurisdiction of the bishops, had been all disposed to that effect. The royal power and majesty of kings was most glorious in the prosperity and happiness of their people; the perfection of all things consisted in the end for which they were ordained, in attaining whereof their happiness consisted; but if the means and end were set in opposition to each other, they must needs cause a defect in both.

On the absurdity of Strafford's excuses Mr. Pym observed, that it was true, liberty belonged to counsellors; but then those matters which were good and beneficial to the commonwealth were the proper subjects of counsels; not treasons, such as the subversion of its laws, and violation of its Liberties: they could not be justifiable by any circumstance or occasion. Strafford being a counsellor made his fault more heinous, as being committed against a greater trust, and in a way of much mischief and danger. Part



Anno 1641.

of Strafford's apology was, that his counsels were well intended : " Sometimes good and evil, continued Mr. Pym, truth and falshood, can hardly be distinguished ; matters hurtful and dangerous may be accompanied with such circumstances as may make them appear useful and convenient : in such cases good intentions will justify evil counsels, but when the matters propounded are evil in their nature, such as those wherewith the earl of Strafford is charged, to break public faith, and subvert laws and government, they can never be justified by any intentions, how good, soever pretended. He has often insinuated this, that his counsel was for his majesty's service, to maintain that sovereign power with which he is trusted by God for the good of his people. Doubtless, this is none of that sovereign power, that by his own will he may lay taxes on his people : this has been five times adjudged in parliament. He alleges, that his counsel was propounded with divers limitations, and repairing the liberty of the people : this implies a contradiction, to maintain an arbitrary power, and yet to restrain it with limitations and provisions ; for even those limitations and provisions will be subject to the same absolute power, and to be dispensed with in such manner, and in such time, as itself shall determine." Mr. Pym concluded his harangue with observing, that the forfeitures inflicted for treason were, by the law of England, of life, honor, and estate, all which could be forfeited ; that nothing could be more equal than that Strafford should perish by the justice of that law he would have subverted. " Neither, says he, will this be a new way of blood ; there are marks enough to trace this law to the very original of the kingdom ; and if it hath not been put in execution, as he allegeth,

allegeth, for these two hundred and forty years, it was not for want of law, but that all that period hath not bred a man bold enough to commit such crimes as these; which is a circumstance which aggravates his offence, not makes him less liable to punishment."

The matters of fact being closed, Strafford demanded to be heard by his counsel on matters of law. The Commons opposed this, because they had, from the first, intended to proceed by bill of attainder after the closing the evidence of facts. The Lords were extremely unwilling to give up the privilege of being the sole judges of Strafford's guilt or innocence: They declared their resolution of hearing his counsel on the point of law; and Gardiner (the recorder of London), Loe, Lightfoot, and one Lane (attorney to the prince of Wales), were the men appointed for this business. Lane's argument was an attempt to prove, that the statute of the twenty-fifth of Edw. III. was a declarative law, and so not to be interpreted as of consequence, equity, or construction, but by the express letter only; and that an act had passed in the sixth of Henry IV. which ordained, that the salvo should be holden repealed in all times to come, and nothing to be esteemed treason, but what was contained in the statute of the twenty-fifth of Edw. III. \* The

\* One of the facts which Mr. Lane quoted, to prove his argument, was the earl of Northumberland's case in the reign of Henry IV. but he stated it diametrically opposite to the truth. This earl was charged with treason, said Lane, and if the statute of the first of Hen. IV. cap. x. whereby the proviso is repealed, had not intervened, no doubt he had been condemned of treason; but he was convicted of felony, and that because he could not be drawn within the letter of the statute of the twenty-fifth of Edw. III.

The earl of Northumberland had been in arms against the  
 F f 3 King,



Anno 1641. Commons thought it below their dignity to offer any answer to Lane's argument; but told the Lords, they would depute one of their members to satisfy them on the legality of their proceedings. They passed votes, that it was sufficiently proved, that Strafford had endeavored to subvert the antient and fundamental laws of these realms of England and Ireland, and to introduce an arbitrary and tyrannical government against law; and that these endeavors were high-treason.

A paper was produced in the house, of notes taken by Sir Henry Vane of a debate in council after the dissolution of the last parliament; the title of which was, "No Danger of a War with Scotland, if offensive, not defensive." The notes were as follows:

"*King Charles.* How can we undertake offensive war, if we have no money?

"*Lord Strafford.* Borrow of the city one hundred thousand pounds. Go on vigorously to levy ship-money. Your majesty having tried the affections of your people, is absolved and loosed from all rules of government, and to do what power will admit. Your majesty having tried all ways, and being refused, shall be acquitted before God and man; and you have an army in

King, and consequently within the letter of the statute. Henry referred the consideration of his punishment to the judges. This the Peers in open parliament protested against, and declared that judgment belonged to them; They acquitted him of treason and felony, and brought him in guilty of a trespass, fineable to the King. This case is a strong evidence in favor of what the Commons asserted, that former parliaments assumed the privilege of declaring in matters of treason, and disclaimed the judgment of inferior courts in all cases of this nature which came before them, according to a declaration of the parliament in the twelfth of Ric. II. *Vide Guthrie*, vol. II. p. 348. 414.

Ireland which you may employ to reduce *this* Anno 1641.  
kingdom to obedience; for I am confident the  
Scots cannot hold out five months.

“ *Archbishop Laud*. You have tried all ways,  
and have always been refused; it is now lawful to  
take it by force.

“ *Lord Cottington*. Levies abroad there may be  
made for the defence of the kingdom. The lower  
house are weary of the King and church. All  
ways shall be just to raise money by, in this in-  
evitable necessity, and are to be used, being  
lawful.

“ *Archbishop Laud*. For an offensive, not de-  
fensive war.

“ *Lord Strafford*. The town is full of lords:  
Put the commission of array on foot; and, if  
any of them offer to stir, we will make them  
smart.”

This paper was such a corroborating evi-  
dence to what the privy-counsellors had already  
deposed on this debate, that a bill of attainder  
of the earl of Strafford passed the house, without  
any greater opposition than that of fifty-nine dis-  
senting votes.

Though we admire that spirit of resentment  
which these notes kindled in the Commons against  
the principal offender, yet it must be allowed  
they were guilty of a deficiency of justice in not  
sending up at the same time an impeachment  
against Cottington, who was in this debate as no-  
toriously guilty of treason as Laud and Strafford.  
The partizans of tyranny pretend to palliate  
Strafford's guilt by alleging, that changing the  
word *this* into the word *that*, the advice of re-  
ducing the kingdom could regard nothing but  
Scotland, and implies no criminal counsel. Not  
to lay any stress upon the absurdity of this argu-



Anno 1641. ment \*, the other parts of the discourse, acknowledged by Strafford himself to regard England, are evidently treasonable †.

Mr. St. John was deputed by the Commons to satisfy the Lords on the legality of their proceeding by bill of attainder. His discourse was very prolix, and contained great weight of law and learning. He told the Lords, that the Commons had found Strafford guilty of treason within the statute of the twenty-fifth of Edw. III. by levying war, upon the matter of the fifteenth article of their charge ‡. They found him guilty of treason by assessing and laying soldiers § on the

\* Since the question in debate was how to get money of the English, the discourse must be downright nonsense, if it did not mean the employing violence to reduce the kingdom which denied money.

† The notes either were, or were pretended to be, obtained clandestinely by Sir Henry Vane's son, out of a cabinet in which he had been sent to search for other papers by his father. If this was only a pretence, to screen Sir Henry Vane from being thought an instrument in exposing that which he had no mind to conceal, it was the most unnecessary piece of hypocrisy which ever was attempted. The discovery must have done him credit with every person who thought justly; since it is inconsistent with true honor, or the duty of a good citizen, to conceal treasonable council against the Liberty of his country, wheresoever projected or spoken. The position, that the oath of a privy-counsellor binds him to be guilty of so great a crime, is dangerous, illegal, and absurd.

‡ Mr. St. John shewed, that the law made a distinction between subject's levying war against subject on matters of a private nature, and the levying war to enforce arbitrary power, and alter the laws, statutes, and government of the realm.

§ This was inflicted by way of punishment for disobedience to the deputy's orders. The soldiers who were thus assessed on the subject killed their cattle, and consumed their provision at their pleasure. This burthen the subject was to sustain till they conformed in all things to the deputy's pleasure.

sub-

subjects of Ireland, within the Irish statute of the eighteenth of Hen. VI. \* and lastly, they found him guilty of treason by the common law, in endeavoring to subvert the fundamental laws and government of the realms of England and Ireland, and instead thereof to introduce a tyrannical government against law. The stress of Mr. St. John's argument was, that Strafford was guilty of treason by the common law of the land, and that the statute of the first of Henry IV. was only to regulate the common courts of justice, not to limit the power of parliaments. There seems to be a great deal of reason in what he urged on this point. There have been precedents since that time of men being convicted at common law, and impeached and attainted by parliament,

\* Concerning this article Strafford pleaded, that by the statutes of the eighth of Edw. IV. and tenth of Hen. VII. the English statutes were brought into Ireland, and consequently the Irish statute of the eighteenth of Hen. VI. was rendered invalid by the first of Hen. IV. which says, that in no time to come treason should be adjudged otherwise than is ordained by the statute of the twenty-fifth of Edw. III. This objection was little efficacious; because an act of parliament, enacted at the same time of that of the tenth of Hen. VII. declares, that all the Irish statutes excepting two, whereof the Irish statute of the eighteenth of Hen. VI. was none, should still be in force. To an objection Strafford made, that he could not be tried in England for offending against the Irish laws, Mr. St. John brought examples to prove that several deputies had been tried in England for offences committed in Ireland; that the common law, the expositor of statutes, was the same in both countries; and that writs of error in pleas of the crown, as well as in civil causes, had been brought even in the inferior courts of Westminster, upon judgment given in the courts of Ireland; that writs of error lie in the parliament of England on erroneous judgment given in the Irish parliament; that acts of parliament made in Ireland have been confirmed by the parliaments of England; and that there had been statutes made in England which concerned the lives of the Irish subjects. *Rushworth*, vol. VIII.

for



Anno 1641. for treasons not specified in the statute of the twenty-fifth of Edw. III. Sir John Mortimer, after the first of Hen. IV.; the duke of Suffolk in Henry VI.'s time, for making an improper peace with France; and Empson and Dudley, in Henry VIII.'s time, convicted at common law of high-treason, for subverting the laws of the land \*. The statute of Edw. III. seems to have been framed with the laudable intention of protecting the subject against the violence of kings and ministers; and therefore has with great care enumerated treasons which related personally to the King, but meddles not with original ones, for which Strafford was impeached; concerning treasons against the nation, such as diminishing its power, its glory, or its interest in the way of trade: concerning treasons against the constitution and laws of the land it is entirely silent, and leaves their punishment to the discretion of the legislative power. If these treasons were as well defined as those which relate merely to the person of the King, it certainly would be advantageous to Liberty; but a toleration of them is totally inconsistent with the safety of the constitution. St. John did not strictly confine his arguments to points of law; his warmth betrayed him into the indiscretion of advancing positions which have been much cavilled at: That were the testimony against Strafford not strictly what the law required, yet, in this way of bill, private satisfac-

\* The lawyers, in their pleadings for the prosecuted members, Sir John Elliot, &c. quoted the statute of the twenty-fifth of Edw. III. and alleged, that the parliament was to determine what was treason, what not. The lawyers for the crown alleged, that the positive law had always made explication and exposition on that statute. *Vide*, p. 68.

tion to each man's conscience was sufficient; Anno 1641, that the earl had no title to plead law, because he had endeavored to destroy the law. "It is true, added he, we give law to hares and deers, for they are beasts of chase; but it was never accounted cruel nor unfair to destroy foxes and wolves wherever they can be found, for they are beasts of prey."

Though it was highly imprudent to use these arguments in a discourse which should have been merely confined to matter of law, yet certainly there was reason in what St. John advanced: A full conviction of crimes may be obtained from a complication of facts and circumstances, the nature of which, as in this case, cannot admit of two witnesses to every article; but every article and circumstance may so corroborate the charge, as to amount to a more convincing proof than what is required by the forms of the law: these forms ought never to be dispensed with in any accusation of a private nature; yet the man who would hesitate to prosecute or condemn a criminal, who it was rationally proved had, like Strafford, been guilty of atrocious acts of oppressions, and made bold attempts to enslave his country, must be very lukewarm in the cause of public justice, and have very narrow sentiments in regard to Liberty. The arbitrary principles which it was apparent were diffused through all his government, made him a more noxious minister than a million of unjust acts which had been clear of this tinct. Arbitrary principles destroy Liberty; the evil is universal and perpetual: acts of mere injustice are temporary evils, and affect but individuals. Strafford preferred a petition to the Lords, that he might be heard again in point of law, to make a defence against the bill of attainder. This the  
Lords,



Anno 1641.

Lords, out of respect to the lower house, thought fit to deny.

Charles, who had been flattered that the Commons, in their proceedings against Strafford, would find a firm opposition from the Peers, was so greatly alarmed at this piece of complaisance, that he went immediately to the upper house, and calling up the Commons to the bar, made a speech to both houses to the following effect: "That he was convinced Strafford had been guilty of such misdemeanors that he was not fit to serve him or the commonwealth in any place of trust; no not so much as to be a high-constable. He had been present at the hearing of his trial from one end to the other, and could not in conscience condemn him of high-treason. He hoped they knew what a tender thing conscience was; he would do great matters to satisfy his people; but that no fear nor respect should ever make him go against his conscience."

This premature declaration set the Commons in a flame. At their return to their house, they fell into a hot debate, in which it was said, that his majesty had in his speech plainly asserted, that an attempt to subvert the fundamental laws of the kingdom, and introduce an arbitrary government, was not treason; that if the King might take notice of what bills were passing in either house of parliament, and declare his opinion before they came before him in a parliamentary course, it was to fore-judge their counsels, which would prevent them from applying remedies to the commonwealth suitable to the diseases it labored under. On these arguments the house voted, that this act of the King was the most unparalleled breach of privilege which had ever

ever happened \*. The bill of attainder met with so great an opposition among the Peers, that the Commons would have found it a difficult matter to succeed in this important point, had they not been assisted by several favorable occurrences arising from the King's imprudence, or rather treachery. The facility with which the parliament had hitherto obtained what they demanded of the King had been owing to his extreme desire to get rid of so troublesome a set of counsellors: He every day expected that they would disband both armies; and, according to what they had artfully flung out in several speeches, settle on the crown an ample revenue on an independant footing. In this situation, he flattered himself he should be able to get rid of those fetters which his forced concessions had imposed on the monarchy. But finding, contrary to his hopes, that the Commons, distrusting his sincerity, were determined, notwithstanding the expence, to detain their Scotch friends till they had perfected a reformation on a solid constitutional basis, he became inflamed with anger and impatience, and attempted a very criminal expedient to free himself from a situation which his pride could no longer endure.

The two armies remained still in the Northern parts, and were supplied from time to time with money from the parliament. On one particular occasion that the Scots had made very pressing demands, ten thousand pounds were sent to them

\* Strafford either being sensible of the bad effects which the King's interfering might have on his fate, or disgusted with the expressions he threw out concerning his conduct, was so much hurt with this step, that he wrote a letter to the King, signifying his wishes that he had left him to the justice of the Lords.



**Ann 1641.** out of fifty thousand which had been designed for the English army. The English army, without attending to circumstances, or comprehending the difficulties the Commons lay under, shewed symptoms of great displeasure. Commissary Wilmot, a member of the lower house, told the speaker, that if the Scots could get money for sending a piece of paper, he did not doubt but the English officers would fall upon the same expedient. This coming to the King's ears, he endeavored to turn this accident to his advantage, and attach the army to himself. In all his conversation with the general officers, he lamented the partiality of the parliament to the Scots; and promised, if the English officers would be faithful to him, he would pawn his jewels to feed them and their soldiers. The earl of Northumberland and other principal officers being in London, the army was commanded by Sir Jacob Ashley, a creature of the King, and one whom Strafford had preferred to his service.

Attempt to  
debauch the  
army.

The queen, who, without the requisite talents, had more that a female propensity to intrigue, entered with greater violence than judgment into the extreme of the King's proposition, and formed a scheme of bringing the army up to London, to surprize the Tower, overawe the parliament, and fortify Portsmouth. Two poets, Sir John Suckling and William Davenant, with a Mr. Jermyn, were her confidants and counselors. The scheme was communicated to the son of lord Goring, an officer of a debauched and profligate character. The earl of Newcastle was to be general, Goring was to be lieutenant-general, and the King and prince of Wales, with one thousand horse, were to join the troops in Nottinghamshire. Piercy, brother to the earl of Northum-

Northumberland, Willmot, Ashburnham, Pol- Anno 1647.  
lard, Berkley, and O'Neale, had communicated with the King on a design to engage the army in his favor; and according to directions, had drawn up a petition, which he promised to get subscribed by the officers of the army, against the lessening the power of bishops, against the disbanding the Irish army till the Scots were disbanded, and for the settling the King's revenue; promising their assistance for the accomplishing these points \*. To this petition the King had the imprudence to sign C. R. as a token of his approbation.

Bold and dangerous as was the design, yet it did not match the violence of the queen's temper, nor entirely satisfy the King. Piercy, the principal agent between the King and these officers, was pressed by the King to admit Goring and Jermyyn into their cabal; and this, notwithstanding Piercy represented that the things these men aimed at were beyond what the army could be brought to undertake, it was at length resolved, that the two setts of conspirators should meet to determine on a general plan of action, under an oath of secrecy not to communicate any thing which should pass among them. The army, very much to their honor, had the good sense to reject some proposals which were made to them from this cabal; and Goring, having quarrelled with the party, discovered the whole plot to the leaders of the parliament. The plot discovered.

\* Clarendon pretends to give the true petition which was presented to the King; but Rapin has shewed, that this petition inserted in the History of the Civil Wars could not be the real one, because it mentions facts which happened after the time the plot was discovered. *Rapin*, vol. XI. p.



Anno 1641.

Protestation  
of both  
houses.

Mr. Pym communicated the intelligence to the house. There were informations given, he said, of desperate designs, both at home and abroad, against the parliament and the peace of the nation. There was an endeavor to disaffect the army, and bring them to over-awe the parliament; there was a design upon the Tower, and attempts for the earl of Strafford to escape; that these combinations at home had a correspondence with practices abroad. The French were drawing down their forces to the sea-side; there was cause to fear their intent was upon Portsmouth; divers persons of eminency about the queen were deeply engaged in these plots. Both houses were so affected with the prospect of their danger, that a protestation, declaring that the subscribers would unite to defend their Religion and Liberties, was taken by almost every member of the house of Commons\*, and by all the Lords, except Southampton and Roberts, who refused it on pretence that there was no law which enjoined it. A few days afterwards, by an order of the Commons, the protestation was published, with an explanation that the doctrine of the church, spe-

\* The preamble to the protestation relates, that the members of the house of Commons finding the church in danger from the late bold practices of the adherents of the see of Rome, and that there had been and were endeavors, even during the sitting of parliament, to subvert the fundamental laws of England and Ireland, and to introduce an arbitrary government; that through the unhappy breach of parliaments the subjects had been vexed with divers oppressions, superstition brought into the church, multitudes driven out of his majesty's dominions, a Popish army levied in Ireland, and two armies maintained in the bowels of the kingdom, to the consumption of the treasure of the realm; and finding that endeavors have been used to incline the English army to support by force wicked counsels, have, &c. *Russworth*, vol. IV. p. 241.

cified in it to be defended, was only meant so far Anno 1641  
as it was opposite to Popery and Popish innovations; not to extend to the maintaining any form of worship, discipline, government, rites, or ceremonies of the church of England. The protestation, with this explanation, was recommended by the lower house to be taken by the whole nation\*.

The Commons were not deficient in the necessary measures to defeat the designs of their enemies: They sent cloaths and provisions to the army, with a letter promising the speedy payment of their arrears. The lord Mandeville, Sir Philip Stapleton, and Sir John Clotworthy were sent down to Portsmouth to inspect the garrison, and, if they saw cause, to secure the governor: fifteen barrels of gunpowder, going that way, were stayed; orders given that the forces in Wiltshire and Hampshire be drawn towards Portsmouth, and the forces in Kent and Suffex towards Dover. All the sea-ports were shut up, and Strafford made close prisoner. The Commons declared, that whosoever should give counsel or assistance to bring any foreign force into the kingdom, unless by command of his majesty, with consent of both houses of parliament, should be adjudged as public enemies to the King and kingdom. The queen having declared her intentions to go to Portsmouth, was addressed by both houses to lay aside her journey.

\* The Commons passed a bill for the general taking the protestation. On the Lords throwing this bill out of their house, the Commons passed the following votes, and ordered them to be printed; *viz.* That this declaration is fit to be taken by every one who is well-affected in religion, and to the good of the commonwealth; and therefore whoever refuses to take it is unworthy to bear office in the church or commonwealth. *Parl. Hist.* vol. IX. p. 463, & seq.



Anno 1641.

On the first intimation of a discovery, Piercy concealed himself, and Jermyn fled the kingdom \*. Proclamations were issued for apprehending the conspirators. Goring delivered his evidence before the house; and Piercy wrote a letter to the earl of Northumberland, confessing all the particulars †: They both agreed in their testimonies with regard to the oath of secrecy, which circumstance was denied by Pollard, Ashburnham, and Wilmot. One captain Billingsly being examined upon oath, confessed that Sir John Suckling had offered him promotion; that having notice to attend at the privy lodgings at Whitehall, he there received orders to get an hundred men to serve in the Tower under him, being threatened withal, that if he failed he should answer it with his life. Sir William Balfour, lieutenant of the Tower, deposed, that he had orders to receive captain Billingsly, with an hundred men, into the Tower: That at the same time the earl of Strafford informed him of his intended escape; told him, that without his concurrence it could not be done; that if he would consent he would make him present payment of twenty-two thousand pounds, besides a good

\* Both houses sent to desire the King to prevent any servant of his or the queen to absent themselves till examination was perfected: this he promised to perform; and, notwithstanding, gave a passport to Henry Jermyn. *MS. Journals of the Lords.*

† The King called God to witness, that he never knew of any design to bring the army up to London. This circumstance carries a strong mark of Charles's character. It appears by this disposition, says Rapin, that such a design was proposed in the assembly of officers, but not approved; so the King could affirm he knew of no such resolution, because, in effect, it was never resolved, though he was not ignorant of its having been proposed.

marriage for his son\*: That he, the lieutenant, replied, he was so far from concurring therein, that he was not to be farther moved in such a thing.

The parliament presented an address for disarming Papists †, and removing them from court ‡, and for disbanding the Irish army. Charles answered, that he would take care that there should be no just cause of scandal as to Papists; but he met with difficulties in disbanding the Irish army; that it would become the parliament to begin with disbanding the two armies in England. This answer exasperated the houses. Tumults daily increased. The frightened citizens were every day alarmed with the account of fresh

\* He was offered a daughter of Strafford for a match with his son. The lord Cottington, constable of the Tower, had mounted artillery on its walls; but on a representation of the Commons, the artillery was dismounted, Cottington's command cancelled, and the care of the Tower wholly consigned to Balfour. Some time after, the earl of Newport was made constable.

† In the English army there was a troop called Reformadoes. This troop, I imagine, consisted of men who had renounced Popery. The house of Commons, however, were jealous of them, and ordered the lord-general to disband them. By the same authority, all the officers and common soldiers who were Papists were turned out of the army.

‡ The parliament complained, that the proclamation which had issued out on a former petition against Papists was very fallacious and unsatisfactory; that they still obtained letters of grace to protect them; and that a complaint had been made before the judges in the King's Bench, that there were above six thousand Recusants in one parish. In the height of that popular odium which the party of Recusants had incurred, one James, a Papist, assaulted and stabbed with a knife Heywood, a justice of peace, for having prepared a list of Recusants to be presented to the house of Commons. This act of violence helped to inflame and alarm the nation to that degree, that Clarendon looks upon it as one of the incidents which hurried on the fate of Strafford.



Anno 1641. conspiracies. In Lancashire great multitudes of Papists were gathered together: they held secret meetings, and appointed fasts for the success of some great event; and the priests had the imprudence to declare, that the parliament would soon be dissolved, for the English army was to march up to the assistance of the King, and that they would be joined by French forces. Intelligence was given of provision of arms making beyond sea. Sir Philip Cartwright, governor of Guernsey, wrote word, that he heard the French had a design on that island, or on some part of England. From letters which were stopped going to and coming from France, it appeared, that the earl of Strafford was expected there, and that the cardinal had been solicited to interrupt the proceedings of the parliament \*.

\* The following are passages of a curious letter written from Father Philips, the queen's confessor, to Wat Moun-  
tague, a Papist in France. "The good King and queen are left very naked: the Puritans, if they durst, would pull the good queen in pieces. Can the good king of France suffer a daughter of France, his sister, and her children, to be thus affronted? Can the wise cardinal suffer England and Scotland to unite, and not be able to discern that in the end it is like they will join together, and turn heads against France? A stirring, active ambassador might do good here. I have sent you a copy of the King's speech on Saturday last, at which time he discharged his conscience concerning the earl of Strafford, and was advised to make that speech by the earl of Bristol and lord Saville."

Father Philips proceeds to give an account of tumults which happened at this time: "The King is much dejected, adds he, the Lords much affrighted, which made the citizens and the house of Commons shew their heads. Some have braved little less than to dethrone his majesty, who, if he had but an ordinary spirit, might easily suppress and quash these people."

Clarendon accuses the lord Say of having, with a treacherous design, advised the King to make a speech in favor of Strafford. Father Philips is at this time a better authority for

Twenty thousand inhabitants of London, of good rank and quality, presented a petition to both houses, that they would determine the fate of Strafford; it complained of grievances unredressed; and that the incendiaries of the kingdom, and other notorious offenders, were left unpunished. The names of the fifty-nine Commons who voted against the bill of attainder were pasted up, under the title of Straffordians and betrayers of their country \*. The Spanish

for what related to the secrets of the court. *Rusworth*, vol. IV. p. 257. vol. VIII. p. 751.

\* In this list was the lord Digby, who, to the surprize of all his hearers, had made a very warm speech in the house against the bill of attainder. This light young man had entered with great vehemence into the opposition; and his eloquence had gained him so much reputation with the party, that he was appointed one of the managers to support the charge against the earl of Strafford. This he did with such judicious acrimony, that when Strafford excepted against the lord Corke as a witness, because he might be influenced by resentment for received injuries, Digby replied, "Truly if ill will to my lord Strafford should be an exception to a witness, I am afraid there will be few in the three kingdoms whose testimonials will not be prejudiced." He was not less severe upon this offender in his speech for triennial parliaments: "He must not hope to be forgiven in this world, said he, till he is dispatched to another." Notwithstanding this appearance of zeal in the cause of justice and his country, Digby had enlisted under the banners of Liberty on no one solid principle. His patriotism arose from the resentment of the affronts his father had received from the King, and his having been himself sent to the Fleet on a trifling occasion. On his becoming considerable in the lower house, he found a very different reception at court, and became so intoxicated on receiving some smiles from the queen, that he entered with impetuosity into the measures of the crown; was the undertaker and executer of all the low schemes forged at Whitehall; and was so base, that, being one of the committee appointed to manage the prosecution against Strafford, he stole away the paper of Sir Henry Vane's notes, and made a solemn protestation to the house that he did not convey it

*Strafford's Letters, vol. I. p. 261, & seq.*

*Whitlock.*



Anno 1641. ambassador, whose house was a notorious receptacle of Papists, was insulted by the mob. The queen-mother, who remained still in England, was so terrified with the curses and imprecations of the people, that she desired to have a guard: no soldiers could be found who would undertake the employment. This being represented to the house, they agreed, that her person should be protected by a guard, but at the same time desired she might be moved to leave the kingdom, for the quieting peoples' jealousies, occasioned by ill instruments about her person, and the flocking of priests and Papists to her house\*. The bill of attainder not having yet passed the Lords, the people, with loud cries for justice, crowded round that house, and when any one of that body, who were thought not to favor the bill, appeared, they were surrounded by the populace, who professed that they would be governed and disposed by the honorable house of Commons, and defend their privileges according to their late protestation. At length, when the dependants on the crown were frightened from their attendance by the rage of the people, the bill of attainder passed, with nineteen dissenting votes, the house being composed of forty-five members †.

Bill of attainder against Strafford passes the Lords.  
7 May.

\* Sir John Holland, in a speech he made concerning grievances, complained, that foreigners and strangers were entertained at the excessive charge of the crown. The allowance Charles I. made the queen-mother was one hundred pounds per day. *Parl. Hist.* vol. IX. p. 75. *May's Hist.* book I. p. 108.

† The following clause is in the bill of attainder: "Provided, that no judge or judges, justice or justices whatsoever, shall adjudge or interpret any act or thing to be treason, nor hear or determine treason, in any other manner than he or they should or ought to have done before the passing this act." This clause, which relates to judges in inferior courts, is con-

The passing this bill was not the only advantage the popular party gained by the terror and resentment of the public on the discovery of the late plot. All the money for the payment of the armies, and the gratifying the Scots, had been raised in the city of London; some part of it on the credit of particulars who were members of the lower house. These creditors began now to consider on the desperateness of their situation, if the parliament should be suddenly dissolved before an act passed for their indemnification. The commissaries of the money-negotiation said, there was no hope of borrowing more money on the slender security of parliament, since it had been found out, by the late discovery of a plot, that there was no good meaning towards that assembly. To obviate these difficulties it was agreed, that a bill should be prepared, that this parliament should not be adjourned, prorogued, or dissolved, but by act of parliament. It was urged, that this expedient was the only way to calm the fears of the people, and satisfy them that the King's intentions were gracious; that for this reason he could never deny his assent. The motion was received with universal approbation: a short bill was prepared, and passed the

consistent with all the arguments urged by the Commons for the legality of their proceedings against Strafford; the statute of the first of Hen. IV. cap. xvii. being, as they asserted, to take away the parliamentary power of declaration of treasons, whereby the inferior courts receive jurisdiction, and restrain it to bill, that it might operate no farther than to the particulars contained in the bill. This clause of the Commons, in the bill of attainder against Strafford, shews a very laudable attention to the preservation of public Liberty; yet it has been represented by monarchical writers, that the bill of attainder was of so extraordinary a nature, that the legislators themselves were obliged to insert a clause that it should never be drawn into precedent.



Anno 1641.

Bill for continuing the parliament passes both houses.

house with little opposition ; the Lords proposed an alteration, that the time should be limited, and not be left indefinite ; but the Commons standing firmly to their own bill, the Lords gave up the point, and passed it without any alteration.

During these transactions, the King's situation was truly pitiable : His imprudence had raised a ferment through the whole kingdom, which threatened a dangerous commotion ; nor could he, in the present exigences, find any resource, or other security for his personal safety than submitting to the will of the people. The judges, on being consulted, declared the bill was legal, and that the earl was guilty of treason. The privy-council, without one of the body venturing to interpose other opinion, told him, that there was no other way to preserve himself and posterity than by passing the bill of attainder against Strafford. The queen became an importunate solicitor for his death : she was driven to this by her fears, and the artful insinuations of some of her confidants, particularly the earl of Holland, who flattered her with hopes, that, on the death of Strafford and Laud, her authority over the King would be yet more absolute ; and she might, by interposing her influence towards obtaining what was so ardently desired by the public, gain some interest with the popular party. The King, in his anxiety of mind, put the case of conscience to several bishops ; they applied themselves to remove his scruples : among these was Williams, who, notwithstanding his former discouragements and ill usage, cringed and fawned to Charles\* and

\* Besides the prosecutions already mentioned, Laud had entered another against this prelate, in order to degrade him. Williams appealed to a parliament ; but the difficulties of the ministry

his party, and on these merits was promoted to the archbishopric of York. Williams stated the case to him in the following manner: "Whether, as his majesty refers his own judgment to his judges, in whose person they act in the courts of law, and it lies on them if an innocent man suffer, his majesty may not satisfy his conscience in the present matter, that since competent judges in law have awarded, that they find guilt of treason in the earl, that he may suffer that judgment to stand, though in his private mind he is not satisfied that the lord Strafford is criminal?"

This is a sensible state of the question, which was in reality a point of honor, not of conscience; since a King of England ought never to interpose his private opinion against the other parts of the legislature, and what is declared by the proper judges to be the law of the land. The question by Charles ought to have been considered in this light; Whether as Strafford's guilt was incurred with his approbation, under the assurance of his support and protection, the laws of honor bound him to run the hazard of his personal safety, to-

ministry increasing, the affair was dropped. Williams had lain above three years and an half in the Tower when this parliament met: he in vain petitioned the King for his liberty, and his writ as a peer to sit in parliament. The house of Lords, sixteen days after their meeting, sent an order to the lieutenant of the Tower to deliver him, and he was conducted by their usher to the house. Williams had drawn up an history of his sufferings, with an intention to present it to the parliament; but he no sooner was in a capacity to perform servile offices for the crown, than he opposed all the popular motions in a manner which at length drew some civilities from the King, who sent to confer with him concerning his affairs, directed all orders filed against him to be erased, promoted him to the see of York, and permitted him to hold his deanry of Westminster *in commendam*. *Hacket's Life of Williams*, fol. & oct. ed.



Anno 1641. together with the peace of the kingdom, to make good that criminal promise. Laws of honor, such as these, are artificial bonds, calculated for the preservation of individuals, associated in illegal combinations, and subscribed to by men, who, having thrown off all civil ties, have no rule of safety but from mutual confidence, and the hardy resolutions of their companions in villainy. If a steady adherence to such principles may be esteemed laudable among a licentious banditti, they cannot, I think, be supposed to bind a monarch in his royal capacity. Charles's scruples, however, were invincible; and he was at length brought to pass the act, though he thought in doing it he committed an unpardonable crime.

It is said, that what determined him was a letter from Strafford, in which he intreated him to put an end to his unfortunate, however innocent, life; and quiet the tumultuous people by granting them that request for which they were so importunate. "My consent, said the writer, will more acquit you to God than all the world can do; beside, to a willing man, there is no injury\*. And as, by God's grace, I forgive all the world with a calmness and meekness of infinite contentment to my dislodging soul, so, Sir, to you I can resign the life of this world with all imaginable cheerfulness." It is said that this letter was dictated by despair, and that Strafford had certain intelligence that he should be deprived of his life in the Tower, if the King refused to pass the bill. It is probable, that he wrote the letter with an intention to excite the King to make an effort

\* The King had sent a letter to Strafford during his confinement, in which he assured him, upon the word of a King, that he should not suffer in life, honor, or fortune. *Strafford's Letters*, vol. II. p. 416.

to save him. It is certain, he shewed signs of Anno 1641,  
disappointment and surprize when he was informed by secretary Carleton, that the King had granted a commission to four lords to pass the bill of attainder. It was with some difficulty he could believe the fatal tidings; but on being assured of their certainty, he rose up from his chair with marks of astonishment and horror, lifted up his eyes to Heaven, laid his hand on his breast, and exclaimed, "Put not your trust in princes, nor in the sons of men, for in them there is no salvation."

The commissioners appointed to pass the bill of attainder were at the same time impowered to give the royal assent to the bill for the continuance of the parliament. Charles, tortured with the pangs of shame and remorse for the yielding to Strafford's doom, passed this bill without attending to its importance. One fruitless effort was made to save this unfortunate minister: He sent a letter to the Lords, desiring that he might fulfil the natural course of life in a close and perpetual imprisonment, but concludes, "If no less than his life can satisfy my people, I must say *fiat justitia*." To this was added a postscript: "If he must die, it were charity to reprieve him till Saturday \*." This letter of intercession, though delivered by the prince of Wales, did not alter the present determinations of the Lords: they deputed twelve of their house to satisfy the King,

The King consents to Strafford's attainder, and to the bill for continuing the parliament. May 10.

\* Burnet says, that he was told by Holles himself, whose sister Strafford had married, that he drew up a petition for Strafford, and a speech for the King to make to both houses in his favor; that the queen not only prevented the King's going to the parliament, and changed the speech into a message, but prevailed with him to add the postscript, "If he must die, it were charity to reprieve him till Saturday." *Burnet's Hist. of His Own Times*, vol. I. p. 82.

that



Anno 1641. that even a delay of Strafford's execution would endanger his own and his family's safety. Charles yielded to the necessity of the juncture, and told the Lords, that he did not mean to save Strafford to his peoples' discontent. The twelfth of May was appointed for the execution, and Strafford, being sensible that all endeavors to postpone it would be ineffectual, presented a petition to the Peers, praying for their intercession with the King in behalf of his children; and prepared himself for death.

In these moments of terror, he wanted that consolation which supports innocence when oppressed by the stroke of power; he wanted that fore-taste of glory which accompanies great characters, when suffering in the cause of virtue; he wanted the compassion of mankind, which commonly attends the distressed. Deprived of these succours, he found in superstition, that cordial to the weak and wicked, ample resources on this tremendous occasion. Strafford, in the course of his administration, had been a great promoter of what was called the cause of God; *viz.* the interest of the church: many of his oppressions in his Irish government were committed with a view to enrich churchmen, and exalt the power of the hierarchy. This was regarded by Laud as the most orthodox of Christian virtues. Although Strafford had directed his conduct in this point to the sole view of promoting his interest with this prelate, yet he flattered himself he had attained great merit in having been a promoter of the glory of the church; and, as his oppressions on this head were part of his accusation, he esteemed himself a kind of martyr to the cause of God. The day before his execution he had earnestly solicited an interview  
with

with Laud; on being denied, he sent him a message, that he desired his prayers that night, and his blessing on the morning.

In passing from his apartment to Tower-Hill, Strafford's execution. he stopped under Laud's windows, and entreated the assistance of his prayers in those awful moments which were approaching. A very tender scene passed between these fellow-sufferers, who had been associates in power: the aged prelate, dissolved in tears, pronounced, with a broken voice, a blessing on his departing friend and convert; then, over-pressed with the tide of sorrow, sunk down in the arms of his attendants. Strafford, with a determined countenance, marched on to meet his fate: Archbishop Usher, primate of Ireland, attended him on the scaffold. On seeing his brother Sir George Wentworth weeping, he told him not to lament, but rejoice in his innocence and approaching happiness; that no thoughts of envy, no dreams of treason, jealousies, or cares for the King or state, or for himself, would interrupt that easy sleep. He then kneeled down, and, in a solemn manner, made a protestation, that as far as he could understand he was not guilty of the crime laid to his charge, nor ever had intention to prejudice the King, the state, the laws, or the religion of the kingdom\*. He desired leave to make a speech to the people: In this speech he asserted, that he was very far from being against parliaments, and did always think parliaments to be the happy constitution of the King and kingdom, and the best means under God to make the King and his people happy†. He

\* He thought it no prejudice to the state or church to assist both in the attaining arbitrary power; but the question was, whether it was prejudicial to the people?

† In this strong assertion, Strafford certainly meant dependent



Anno 1641.

professed, that he was an obedient son of the church of England, and wished prosperity and happiness might ever attend her. He sent a charge to his son to prove a faithful subject to the King, and to beware of meddling with church-livings, for that would prove a canker to him in his estate; and advised him to be a servant to his country, as a justice of the peace in his county, not aiming at higher preferments. Having bid a last adieu to his brother, and the friends who attended him, and sent a blessing to his absent relations, he added, "I have now nigh done; one stroke will make my wife a widow, my dear children fatherless, deprive my poor servants of their indulgent master, and separate me from my affectionate brother and all my friends: but let God be to you and them all in all." On preparing himself for the block, he said, "I thank God I am no way afraid of death, nor am daunted with any terrors, but do as chearfully lay down my head at this time, as ever I did when going to repose\*." The executioner performed his fatal office with one blow.

Thus, by the stroke of justice and the voice of his country, in the forty-ninth year of his age,

dent parliaments, the greatest curse the nation can, in a political sense, be afflicted with. He could never mean independent ones; that is contradicted in all his documents of government delivered in private.

\* There are two speeches in Somers's Collection of Tracts, pretended to have been composed by Strafford; one spoken to some lords who attended him in the Tower immediately before his execution, the other intended to be spoken at his death. They are full of contrition for his past conduct; and the style so different from the account generally given of his behavior, from his professions, from his advice to his family, and from his character, and the strong prejudices he had imbibed in the latter part of his life, that there is great reason to suspect their authenticity.

died

died Thoms viscount Wentworth and earl of Anno 1641.

Strafford. His fate has been lamented and loudly exclaimed against by many writers, who allege that the sentence by which he fell was not according to statute-law, and therefore iniquitous. This is an assertion contrary to fact, since part of the crimes for which he was condemned was levying war, within the statute of the twenty-fifth of Edw. III. and selling soldiers, within the Irish statute of the eighteenth of Hen. VI. Yet, allowing this assertion to be true, in the best regulated governments, circumstances may arise of so peculiar and urgent a nature, as to render it necessary for the legislative power to exceed the strict letter of the law. England could not at this time be called a settled government, since the King, by his illegal administration, and violent attempts to subvert the constitution, had introduced a state of confusion, which rendered acts of power necessary expedients to reinstate the people in their long lost privileges, and give to violated laws their due authority; not to mention that combination of circumstances which rendered the death of Strafford absolutely necessary to the safety of reviving Liberty. Never was criminal executed on principles of stricter equity, nor was ever the life of a bad citizen more justly due to an injured country.

Strafford is one of ~~the~~ heroes of the monarchical His character. party, and most historians agree he was a great man; but none of them have taken pains to delineate his character, or tell us what were the eminent qualities of his head or heart which constitutes that greatness. It has been alleged, that Strafford was a great statesman; a character of the highest estimation in its just sense: but, in that



Anno 1641. that exalted appellation, nothing more is meant by the vulgar than being a proficient in the narrow circle of ministerial juggling—the abilities of a Scapin, to cheat the credulous and unwary! A knowledge in the extensive science of politics, the different constitutions of different societies, the just interests of nations, and the operative effect which political institutions have on the public weal, when united to a head and a heart capable of employing it to the real service of mankind, constitute the character of a great statesman. In the latter sense Strafford will be found totally deficient; in the other he must be allowed to excel. His talents were of that inferior kind which are always found united to a base mind: the badness of his heart had so corrupted his judgment\*, that at the time when he was engaged in the defence of the Liberty of his country, he does not seem to have been actuated by any just, honest, or liberal principle. He was too ignorant of the nature of the constitution, and the laws of England, to form a right judgment of the state of the question between the King and his people†: and entered into the quarrel with a factious view to oppose particular persons to whom he had an inveterate enmity, and to make himself of consequence enough to be noticed by the ministry. His patriotism dissolved on the first beam of court favor; he was intoxicated on the first taste of power, and became a more bold and zealous instrument of tyranny than any minister this country

\* Or rather, the badness of his judgment had corrupted his heart.

† He was so ignorant of the constitution of England, that, if in his letters and dispatches he speaks his real sentiments, he had no other idea of the duty of office but that of personal service to the King.

ever produced. He was of a revengeful, insolent disposition; but his supreme vice was an insatiable ambition, directed to false and unlawful objects. Among his weaknesses we may reckon his vanity: This was the source from whence flowed his crimes, and this the prime cause of his misfortunes. No instance can give us a juster idea to what a height he possessed this contemptible folly, than his persecution of many people for not complying with those servile ceremonies which he imagined due to his authority. His revival of several foppish formalities of state, during his command in Ireland, is another example of the same kind. In all his letters to the King, and his patron Laud, he assumed to himself great merit and importance; whilst he degraded the services of every other man, excepting those of his own creatures. His behavior was insolent to his fellow-subjects, and abject to his prince. He was continually stimulating him to acts of tyranny, by representing, in phrases bombast, the sublimity of his power, and that it was necessary to curb the insolent opposition of his subjects, by severe and vigorous measures. Laud he constantly courted, because he knew the absolute power this prelate had obtained over the King. Such was the man whom the world has loaded with applause.—His talents as an orator have been much admired: the conclusion of his defence is infinitely preferable to any other of his productions of this kind. In his general style of writing and speaking there is an insolence, a petulance, a vulgar quaintness, which mark the genius and disposition of the man, and which ran through the whole tenor of his conduct. The criminality and arrogance of his behavior rendered him so dangerous and obnoxious, that no



Anno 1641. less than three kingdoms engaged with warmth in his prosecution; and the sentence of death passed upon him gave universal satisfaction\*. The indulgence, therefore, with which his memory has been treated can have no other rise than from the prejudices of party and his fatal end. The axe and the halter are excellent specifics to subdue anger and soften resentment.

\* Sir Philip Warwick, a cotemporary writer, tells us, that in the evening of the day on which he was executed, the greatest demonstrations of joy which could possibly be expressed ran through the whole town and country. Many came up to town on purpose to see the execution, and rode in triumph back, waving their hats through all the towns and villages through which they passed, crying, "His head is off! his head is off!" *Warwick's Memoirs*, ed. 1701, p. 163, & seq.

# A P P E N D I X.

I HAVE ventured to give the following abstract of all the arguments which were urged in the great trial of Ship-money. I am sensible that the pleadings of Mr. St. John, Mr. Holbourn, and the arguments of Sir George Crook, must be greatly injured by an abridgment; my design in this epitome is to excite the reader to peruse this important trial at length.

Mr. St. John began his argument by allowing, that there was a supreme power inherent in the monarch, for the government and defence of the kingdom; he shewed the method and known rules which the law of England had ordained, for applying that power to the intended end. After going through all the forms of administration which the law prescribes for the common government of the kingdom, he shewed that the assistance of parliament was necessary in all cases which did not come within these forms: That the King could not, out of parliament, alter the old laws, nor make new; nor make any naturalizations nor legitimations, nor several other things: That in many cases, without the assistance of parliament, he could not communicate either his justice or his power to his subjects: That if this writ, which gave power to sell and alter the property of the defendant's goods, hath issued from his majesty otherwise than in parliament, where he stands in the height of sovereignty and perfection, the question was, Whether erroneously issued or not? In the stating this great question, Mr. St. John said, he would endeavor to present to their lordships those known and undoubted ways and means whereby the law had provided for the defence of the realm, both at land and sea, without the way in the writ: That the first was by tenure of lands; the second by the many prerogatives which the law had settled in the crown, and made peculiar for the defence of the kingdom in general; the third was the particular supplies of money for the defence of the sea alone



in times of danger ordinary and extraordinary. Mr. St. John then shewed the nature of military service, as established in this kingdom by William the Norman; that with this the law had appointed divers prerogatives for the extraordinary charge of government, and for defence of the realm; these were vested in the King *jure coronæ*, to be employed for the public good. The reason why the King had treasure *trouvé*, and gold and silver mines, in the case of mines, was declared to be, because the King is hereby to defend the kingdom. Mr. St. John then quoted law-cases; the statutes of the 14 Ed. III. the advice of the lords of the council in Richard II.'s time; the petition of the Commons in the same reign, to prove that the constitution had assigned all the profits of the crown, but the King's personal revenue, for the defence of the kingdom. The third way was particular supplies of money; for where the law put the King to any particular charge for the protection of the subject, it always enabled him thereto. The courts of justice were supported by fines, amerciaments, &c. &c. For the defence of the church, the King had temporalities of bishoprics *sede vacante*, first-fruits and tenths, and the tithes of all land which lay not within any parish. Mr. St. John then entered into the history of tonnage and poundage, and shewed, by the wording of the grants in the parliament-rolls, that this tax was not only given for the protection of the merchants, and the ordinary defence of the sea, but for its defence in times of extraordinary danger, and from invasion: That it was declared in the statute of 14 Ed. III. that aids, though granted in parliament for defence, should not be brought into example, in that it might be conceived the Commons were to bear that charge, which principally belonged to the King: That his majesty, *de facto*, took tonnage and poundage, though not granted by parliament; and in the eleventh year of his reign, when this writ first issued out, he took upwards of 300,000 l. upon it: That his majesty was pleased by his proclamation, printed 1626, to declare that these customs were always granted to his progenitors for guarding the seas, and the safety and defence of the realm: That he did, and still must pursue those ends, and undergo that charge for which they were first granted to the crown; and that he received them for the guarding the seas and defence of the realm. Mr. St. John next

alleged, that as the law had put the great trust of the defence of the realm upon his majesty, so when the ordinary supplies failed, it had provided other ways for a new supply: these were the extraordinary aids and subsidies granted in parliament. To prove this, Mr. St. John quoted the words of the summons, and several instances in each King's reign, on which this assembly was called together to consider on means for the defence of the realm. He farther proved, that this was the only way for an extraordinary charge, by the means which past Kings were obliged to take when they did not apply to this remedy; loans and benevolence demanded with promise of repayment, anticipating their rents. After enumerating these instances, he added, "That it could not be imagined that so many powerful princes would bind themselves to repayment of what they might take as a right; and that without any salvo of their rights." Mr. St. John next objected to the uncertainty of the way intended by the writ; that the law delighting in certainties, to the end the subject might be sure of somewhat which he might call his own, had made all those things which the King challenged as peculiar to himself from the subject, either certain in themselves, or reducible to a certainty, either by the judges, jury, or parliament. After proving this by the rule of law, he added, "My lords, to apply all to the thing in question, there is a cause for raising money for the defence of the realm, *non definitur in lege*, what will serve the turn? If his majesty, as in the writ, may without parliament lay twenty shillings upon the defendant's goods, I shall humbly submit it to your lordships, why, by the same reason of law, it might not have been twenty pounds, and so *ad infinitum*; whereby it would come to pass, if the subject had any thing at all, he should not be beholden to the law for it, but is left entirely to the mercy and goodness of the King." Mr. St. John said, that these were his reasons for objecting to the legality of the writ. He should now come to the second kind of proof; authorities that his majesty could not tax his people for setting forth of land-forces for defence; for making and maintaining forts and castles for defence; for victuals for a defensive army; for maintenance of prisoners taken in a defensive war; for pledges and hostages given by foreign states for the keeping of peace; "If, added he,



his majesty cannot tax his people for the five supports of a defensive war, I shall then offer it to your lordships, whether it can be done at all?" Mr. St. John quoted precedents and statutes to prove that the subject was not taxable either for wages, or victuals, or otherwise for finding soldiers out of their counties, though for defence of the kingdom; and that by the statute of Running mead, his majesty could not tax his own tenants, nor proportion the fine according to his pleasure: if he could not do it when the tenant held lands *ad exercitum*, for the defence of the kingdom, much less could he do it where there was no tenure for that purpose. Mr. St. John then quoted acts of parliament *anno quarto* William the Norman, statute of Running-mead 17 John, the statutes of 25 Ed. I. and the statute *De tallagio non concedendo*, the statute of the 14 Ed. III. the statutes of the 25 Ed. III. against loans and benevolences; the 1 Richard III. and the 31 Hen. VIII. for proclamations, in which it was enacted, That the King's proclamations should be made equivalent to an act of parliament, but with a full exception of the subjects' lands, goods, and chattels. Mr. St. John fortified these authorities by many precedents; among these was the resolution of the Lords spiritual and temporal in the 2 Ric. II. who, when the King was beset with enemies, France, Spain, and Scotland, agreed that the Commons could not be charged but in parliament; and therefore, as the necessity was urgent, they lent money for the present, with advice to call a parliament: this was afterwards declared in parliament, and entered upon the roll without any qualification. Mr. St. John also urged the commission issued 3 Car. to raise money by imposition or otherwise, which, without extreme danger to the King, kingdom, and people, can admit no long delay, wherein form and circumstances are to be dispensed with rather than the substance lost. "This, my lords, observed Mr. St. John, was a commission to tax the subjects in time of necessity for defence. In the last parliament, this commission, as against the law, was condemned by both houses, and cancelled in his majesty's presence." Mr. St. John asserted that tonnage and poundage, when first granted for life, was, that the King might always have money ready upon such sudden occasions. The last precedent he quoted to strengthen his arguments, was the commission of loans in

2 Car. questioned afterwards in the parliament 3 Car. and upon debate adjudged by both houses to be void in law by the Petition of Right; presented so to the King, his majesty did not deny it. Mr. St. John opened his last day's argument with the proof, that the sea had no such peculiarity in it but that it would fall within that of the defence in general: he took his authority as high as Dane-Gelt, a tax granted in parliament on the frequent invasion of the Danes in the time of Ethelred, afterwards released by Edward the Confessor. He urged the frequent complaints which the Commons, in the earliest times of the Norman monarchy, had made on the infringement of their liberties, in this particular of attempting to tax them for defence of the sea; commissions repealed by the authority of parliament which had been issued by the monarch, to charge the people to make ships for the defence of the realm; and the acknowledgments of former Kings, that they could not, without the parliament, charge the people with safe-keeping of the sea; the resolution of the sages of the kingdom in Ric. II.'s time, who lent money to provide an army for the sea till a supply could be raised in parliament. Mr. St. John finished his learned argument with observing, that the Cinque-Ports had divers privileges; such as being free from all aids and subsidies granted in parliament, from all tolls, murage and pontage, throughout the realm, for a certain service of fifteen days in a year, and the number of ships certain; that when their charge in the number of men and ships exceeded two, allowance by the King was to be made them, as appeared by the quire of Dover, and Par. roll of 7 Hen. VII. Par. roll of the 19 Hen. III. &c. "My lords, concluded he, if these ports who are bound to the defence of the sea, when they have performed that their service, be not compellable to any farther charge, I shall humbly offer it to your lordships, whether those who be not bound at all, from the same reason, are chargeable at all." Mr. St. John in the course of his argument said, that before the parliament of Lincoln, 29 Ed. I. all things concerning the King's prerogatives, and the subjects' liberties, were altogether upon uncertainties. The statute of Running-mead, Magna-Charta, Charta de Foresta, had been confirmed at least eight times from 17 John unto the 29 Ed. I; and yet not only the practice,



but likewise the judges, went clear contrary to the plain, both words and meaning of them. By the second chapter of Magna-Charta, a baron *pro baronia integra*, was to pay but one hundred marks for his relief; the practice and process of the Exchequer till 29 Ed. I. were always for this relief, one hundred pounds, &c. That the matter of fact in these years, to the violation of the subjects' right, procured the statutes which were afterwards enacted, as the statute *De tallagio non concedendo*, and others.

Sir Edward Littleton, solicitor-general, pleaded as follows: "I shall shew the King's right from the foundation of the kingdom to that which they call the Norman conquest; from the Norman conquest to the time of Magna-Charta 9 Hen. III. from Magna Charta to the statute *De tallagio non concedendo* 25 Ed. I. from the statute *De tallagio non concedendo* to the first granting tonnage and poundage; from tonnage and poundage to this very day; and that the Petition of Right does no way concern the dispute. I shall confute all precedents, objections, reasons, inconveniences, authorities, or records, of which a great number were cited, that there shall not be a syllable left: and in that, first, I will either shew, that the record is mistaken or impertinent, and not to the question; or, secondly, those which are pertinent, I will either agree them, or take the force of them away, that none of them shall be able to stand in the way of the King in this way of defence." After this flourish, Mr. Solicitor began quoting the rule of *salus populi suprema lex*, and grounded his argument on the doctrine of necessity: "Positive laws, said he, are abrogated by reason, when the safety of the kingdom and people are in danger." He quoted the proceedings in 1588, when the whole kingdom was in consternation, that directions were given to keep the enemy from landing; if they could not keep them from landing, to burn down houses, &c. If an enemy approach, a man may make bulwarks and forts on another's soil, 21 Hen. VII. &c. If a subject can be enabled without parliament to do this, shall not the King, who is *pater patriæ*, do the like for the defence of the whole? A man may pull down the house of another when the next house is on fire. If two men are fighting a man may part them, and put them into several houses, because it is for the good of the commonwealth. If a madman be abroad, he may be taken, whipped,

whipped, and imprisoned, lest he do violence to himself and others. A surgeon may cut off one member to save the rest. If a storm arise at sea, to cast out goods into the sea is lawful for the safety of the other goods, &c. What talk we of formalities when we are like to lose the kingdom, when the keeping the laws would end the commonwealth? Mr. Solicitor quoted examples to shew that every man was bound to defend the kingdom when attacked; and was not the king as much lord of the sea as the land? It was a *Droit Royal* to meddle with war and peace: subjects have nothing to do with it; true, Henry VII. brought military discipline into the parliament to advance his own ends. Sometimes dangers are fit to be communicated to the people, sometimes not; they had authorities, which he conceived were full examples in point: these, though not ruled in particular courts of justice, were stronger than any judgments. If men would pay, what need judgments? Though he found not direct authority in printed books, yet records were as good testimonies and greater than reports: Those which concern *jus publicum* come not into ordinary debate, but remain *inter arcana imperii*, and those would speak fully. If precedents were not so full in the years of king Stephen and Henry IV. who were usurpers, it is no wonder: If they had had right to the crown, as his majesty hath, they would not have used compliments. Before the Conquest, he found that king Edgar had his tenants, who swore to co-operate with him *per terram & per mare*. He denied that Danes-Gelt had ever been released: and affirmed, that after Magna-Charta, and the statute of *Tallagio non concedendo*, Kings had layed impositions on their subjects. In 1588 the city of London was desired to find ten ships; of themselves they desired to find twenty: these was the affection of those times; they did not dispute, but were ready to obey. In 1599 great troops were assembled at London for defence of the Queen, when the tumult was about the earl of Essex. In King James's time these were not much: His motto was, *Beati pacifici*. 10 July 2 Car. a proclamation issued that all people should make speedy repair to several places, and should continue during the danger; and for a binding authority, 12 Car. the resolution of all the judges under their hands, and inrolled in every court at Westminster; a man should have thought that



that that should have given satisfaction; it would have done so in former times. Mr. St. John objects, That in his majesty there is *voluntas interna* and *externa*, his inward will which he doth declare in his chamber, and his legal will; and withal, that the King cannot judge himself, 2 Rich. II. fol. 10, 11. Can that be wanting in the fountain which issues in the stream? that I utterly deny. Is it not said *coram rege* in the King's Bench, and in the Star-Chamber *coram consiliis nostris*? This is a new doctrine: Shall not the King judge? Did not King Ed. IV. sit in person in the King's Bench on the trial of a rape? and that famous justice Popham sat at the King's feet, and other judges at the King's side, and therefore called *justiciarii a latere regis*. Sure he forgot King James, who adjudged two cases in the Star-Chamber, those of Bellingham and Sir Thomas Lake. Now he says the parliament is the highest court, and the King is there at highest both for magnificence and power; but yet out of the parliament the King is King of England. It doth not follow because he may do it in parliament, that therefore he can do it no where else. Oh, but the King hath provision for war: this is but a cunning insinuation to make a survey of the King's revenue, and to insinuate with the people; and he begins with knight's service, and these in dangerous places, as Dover, Durham, Chester; then he saith that escuage is to be assessed in parliament, though for defence of the kingdom. If that were the proper question, I could shew when escuage was not by parliament, for it was by another reason. It was altered by an act of parliament 17 Johannis, statute de Running-mead, *Nullum scutagium*, for it was not so before; also it concerneth the subject as well as the King. No man shall be judge in his own case, but therefore not the King; that held no proportion: and Kings are said to do no wrong. Then he alleged, that the King is in actual possession of the wards, that they should go towards the maintenance of the war: he cannot shew any authority worth the valuing; neither Bracton nor Britton hath any such thing. It was said of the Cinque-Ports, that they have many privileges allowed them for the defence of the sea. Is the Cinque-Port-service a competent provision to defend a kingdom against hostilities? I know no reason but the whole body should defend themselves. Then they object that

that tenures in ancient demefne were taillable without consent; and their service for the King's provision in the house, no reason that should exclude them from the general service. Then he did object there was another way of supply of extraordinary means, as mines in other mens' land; and here he remembered M. 3 Ric. II. prerogative comm.; difference taken between annual and casual revenues for defence; then he objected Rot. Parl. 6 Ric. II. 11, 42. that the King would live of his own revenues; and that the mines, &c. should be for defence of the kingdom. Onflow, who argued the case, said, that the King was the most excellent person both at sea and land; therefore the royal fish at sea, and the gold and silver mines at land, were given to him, because he was able to give a stamp on money. The King must live forsooth of his ordinary revenue, M. 3 Rich. II. which expresseth that the King at that time would do so: that the King, by advice, for salvation of the kingdom, would use these things given unto him; that indeed was a reasonable thing for that time, but must it be now turned for a necessity? Mr. Solicitor next affirmed, that tonnage and poundage was never given or taken of itself simply, on extraordinary defence; that in all ages before the granting tonnage and poundage, the Kings, upon a general defence, had had other aids than this, by their own power. Ordinary charge for an ordinary defence; all men must bear proportionably their share in the charge of defence. Oh, say they, but this may be done in parliament: by a *may be* a man may answer any argument, but a *may be* will never answer a bill. Mr. Solicitor then quoted what he called precedents to the case in question, and affirmed, that this right was never meant to be excepted in Magna-Chara, or any of the other statutes against impositions; and that the statute *De tallagio non concedendo* was no act of parliament: That Richard II.'s parliament, taking notice of his tender age, took much power upon themselves. At the end, the Petition of Right, neither Lords nor Commons, jointly nor severally, could make a new law without the King's consent; and that the judges, and none but them, were the interpreters of the law, wise king James did declare. He owned that the statute 31 Hen. VIII. forbad to take away inheritance or land; but here was no lands or goods taken away. Mr. Hamden  
had



had none of his goods touched. A commission of loans 3 Car. for the defence of the kingdom: they mean the commission which was a consideration to levy monies by reason of the necessities of the times, it appeareth in the journal book to be for impositions, or otherwise to raise money not concerning this question: it appears by that, that the King gave a gracious answer unto it, and that it was done for the present time; a warrant for advice only. It was done to raise money in general, but no determination of right; and said at your desires it shall be cancelled: then there was a commission for loans 5 Feb. 2 Car. and this they say, it was for defence of the kingdom. It appears it was for the defence of the Palatinate and Denmark, and for that, a bishop was sentenced for his mistaking. Mr. Pym brought up the articles against him.

Mr. Holbourn argued next: The first question was, he said, Whether upon the whole record, the case did appear for the King. That the 4th August 11 Car. being the day of the date of the writ, the King could charge the county of Bucks to find a ship at their costs and charges: If he could, Whether he could give power to the sheriff to assess the county? As in this case, admit he had power to charge and assess, Whether he could levy the money unpaid, by this course of certiorari and mittimus; as he might do if it was his own proper debt? The first, though argued fully, yet he doubted whether it stood rightly stated: Yet admitted by them, as there was a necessity to state it on the King's part, as Mr. Solicitor had stated it, or wave the dispute. Mr. Holbourn then proceeded to consider the first question, and shewed that there was no such instant necessity but that a parliament might have been time enough called, to have considered of the means of defence. That in the writ dated the 4th of August there appeared no danger of the kingdom being then lost; nothing but for protecting merchants and for common defence; and in the mittimus were no express words of danger to the kingdom instant and unavoidable. Mr. Holbourn objected to the word *salus* in the mittimus; it was but a metaphor in writs; and in pleadings metaphors were dangerous; they did not know how to take issue upon them. He doubted whether if the King put particular reasons into the writ, the law did permit any after-writ to put in farther clauses of the same nature to the same

same end: That though it did now appear by the mitimus, that the 4th of August the kingdom was in danger of being lost, yet this was not sufficient in law; nor could their demurrer hurt them, because it must have so appeared in the writ 4 Aug. itself: for the writ and declaration in law must ever contain precisely so much of matter as is necessarily true to warrant the demand. If a danger declared made the case, how should the subject know by the writ 4 Aug. whether to obey or not? The law bound not a man to divine; and if the subsequent declaration mended the case, then the subject would be a wrong doer *ex parte facti*. The negative part of my argument, said he, is, that the King cannot, out of parliament, charge the subject; not only for guard of the sea against pirates, but also not for the ordinary defence of the kingdom, though the King judge the kingdom to be unavoidably in danger to be lost. My positive part is, that the King is regularly to be at the charge for guarding the sea against pirates, and for the defence of land and sea against enemies, so far forth as he is able; and that he has provision for both, especially for the sea-service. Admit it be agreed, that by the policy of the kingdom the King cannot charge the subject, yet the King may without advice in parliament, in cases extraordinary, where, in his judgment, the safety of the kingdom is in instant danger; and that the business will not admit the calling a parliament. Mr. Solicitor fortified this distinction with strong reasoning, *salus populi suprema lex*; and then, foreseeing the encounter of a reply, he saith, the subject must not say that although the power be in the King, he will enlarge his power, for the King can do no wrong. The distinction between danger ordinary and extraordinary, where the King doth think a danger, and a parliament cannot be called; that distinction, I say, must needs destroy the policy of the whole; for as I conceive, the end of that policy is, that it should never be in the power of any governor to become subject to will or error. The law-books say, the King can do no wrong, and therefore hath taken care that he should do no wrong; for he cannot make a disseisin, nor discontinuance; there may be an inclination to entry, but the law, because he should do no wrong, hath made this act void. I shall offer the judgments of several sages in England;



land ; they ever thought it a dangerous thing to allow any exceptions whatsoever, lest the party who was meant to be restrained should be judge, and then go out when he would. Thomas of Becket, he would not swear to the laws of king Hen. II. unless he might put in this expression, *salvo honore Dei*. The King never meant to violate any of these ; but if that had been allowed, the clergy had been judges. In all acts of parliament, where the King was to be limited or restrained, they would have it in words so punctual that they would not admit of matter of evasion. The statute 21 Ed. I. after the confirmation of two charters, and divers additions, there comes at last a *salvo jure coronæ*. Your lordships will find in history, how all this was satisfied. And 29 Ed. I. at a parliament holden at Lincoln, the King made a confirmation without a salvo. It may be demanded, how came in those savings into those acts, if the parliament did not like them ? And if they were put in, here was a trust. To give you the true answer, the exception never came in originally from both houses, but from the Lords themselves : Those were not times of granting all or denying all ; but to answer some as to some part, and sometimes an exception ; and this being read, the act drawn up upon the whole by the King's counsel ; and this mischief was found out 5 Hen. IV. and from that time all petitions where wholly granted or denied. Mr. Holbourn fortified these assertions with precedents ; and, to shew fully the desired exception, he cited the example of Normandy, which, having the same privileges the English subjects claimed, lost them by allowing a salvo. Mr. Holbourn repeated Mr. St. John's objection, that if the King might charge if he would, as on occasion, so on no occasion, as to seventeen pounds so to seventeen hundred pounds, *ad infinitum* : and added, because it is taken for a maxim, that the King can do no wrong, and therefore the law doth repose this trust in him, of charging without any danger at all. I shall shew that the same law doth take notice, how and in what manner the King can do amiss, and where it is sparing to leave him a power to lay a charge on the subject, even in small things, when the *quantum* rests in his judgment : It is true, the law doth allow the King to command payment of money in some cases ; yet where the *quantum* on occasion is subject to a trial, to say that the

the King cannot err in his natural capacity is strange; human nature is not capable of such a prerogative. Princes are subject to natural infirmities of the body, and must die; even so of the understanding and will. How many acts of parliament have we in print, declaring the King's mistakes in the acts themselves, and providing remedy for the future, yea in their own times? As the law saith the King may mistake in his natural capacity, so it hath taken care that in his politic capacity he shall not; and hath provided means to prevent it, a writ of *ad quod damnum*. Here Mr. Holbourn quoted law-cases and statutes to shew how the King was restrained from taxing; and desired the judges to consider, how unwilling the common law was to leave him at liberty to charge his subjects; and how he was restrained by acts of parliament, when the common law before did give liberty. These acts of parliament he mentioned; and answered the objections that Mr. Solicitor had raised to the authenticity and meaning of these statutes. Mr. Holbourn then brought many authorities to prove, that it was the practice of former Kings in all ages to resort, on extraordinary occasions, to parliament; and when they could not effect their end by that means, they made many borrowings, as appeared by the parliament rolls. What other courses, says he, they have taken, appears by the former arguments; and, when the King received such supplies, it came voluntarily, and with many protestations that those things should not be drawn into example. The people ever denied the practice of raising arbitrary impositions on them, under pretence of defence of the kingdom. Mr. Holbourn next enforced Mr. St. John's arguments concerning the provision the law had given the King for the defence of the kingdom; and farther insisted, that the King could lay no charge, not even in little things, on the public; he quoted a book case of the 13 Ed. IV. concerning a new office of measurage, *pro bono publico*, and an action brought, complained of in parliament to be against the statutes, to provide that no taxes should be laid. The answer was, Let the statute be observed. Lord Latimer's case, condemned to die for laying impositions on merchandize, by the King's order. Mr. Holbourn observed on the protestation of the Commons, with the grant of tonnage and poundage to Hen. IV. To what end, said he, would they



they have protested that it was granted of loan, and not of right, if the King might charge them another way? In that case, it must be all one to them which way they bore it, whether by tonnage and poundage, or otherwise. The preamble to the grant of tonnage and poundage, 1 Jac. was mentioned by Mr. Holbourn, the condemnation of the commission of loans and benevolence, and the commission of advice in the present reign, the Petition of Right, and, lastly, the judgment of both houses on Manwaring's sermon. To the cases where property yieldeth to necessity, which Mr. Solicitor had quoted, such as a house on fire, a ship in a storm, When the danger is in *proxima potentia*, answered Mr. Holbourn, we may prevent it. When another man's house be on fire, mine may be pulled down to stop it; so that we may see by what grounds we go in the case of absolute necessity: If there be a storm, or leak in a ship, that the danger be actual, it is justifiable for the master to throw out the goods; but if he sees a cloud arise, and, out of fear of a storm, he throw out the goods, I doubt on a jury which way this would go. My lords, concluded Mr. Holburn, there are in the case two points more which I shall move: Whether or no, admit the King could command the subjects to find ships, he can give power to the sheriffs to make the assessment, as in the writ. The ground is upon this, that in all cases of politic charges, the law takes an especial care to make an equality. In parliaments of old, they were always careful to make provision that way, as upon fifteenths and subsidies; and in Dane-Gelt, they went such a way as there could be no inequality; they went by taxing hides. Now if the law doth make this a legal way of charging, it allows the like way for assessment which is allowed in other cases; such a way as wherein there can be no inconvenience. If a hundred be charged, they have ways to lay it on themselves proportionably. The next thing is this; admit a levy may be well made, whether the money thus paid may be brought into the Exchequer by a *scire facias*: I do think this is the first writ which ever was of this kind. I do not find it regular. My lords, I think it is hard to find where there is a writ which commands and prescribes the manner of levy: it not only gives you power to levy, but sets the way of levying by imposition, by distress, by selling; for my part I know no case can match it.

Sir

Sir John Banks, the attorney-general, offered his argument, with an assertion that this power of charging the subjects was *inter jura summa majestatis*, innate in the person of an absolute king, and in the persons of the Kings of England; that it was so inherent in the King's person, that it was not any ways derived from the people, nor was it confined to the political advice that the King must be *in cathedra*, sitting in parliament. That the King of England had an entire empire; was an absolute monarch: Nothing could be given to an absolute prince which was not inherent in his person, as appeared by books, records, and acts of parliament. That the King held his empire immediately of the God of Heaven, and, at his coronation, his crown was elevated as a signification thereof\*. There is an objection made, said he, that if charging the people should rest in the power of the King, he might do it when there was no ground for it, and without cause; this is clearly against presumption of law; for where the law trusteth, we ought not to distrust. The King, as appeareth by all our books, is the fountain of justice and piety, and will do justice to all his subjects; all justice is derived from the King; the King, being God's lieutenant, cannot do wrong. The King could not be made an instrument of covin and fraud, but the patent was void. At the common law, a man committed by the King is not repleviable; if committed by his council, that is, his representative body, he is not repleviable. If the King commit a man *per bouche*, he is not repleviable: For a farther reason, those who are his delegates, or judges, are not to be mistrusted. That which a judge doth, as in his office, shall not be assigned for error; If it be so in the delegate power, much more in the primitive and fountain, &c. the King, as he is King of England alone, for the common defence of the realm, may *statuere*, &c. He may do it by the advice of his council when he pleases. He may ordain several ways, by the institution of the common law, by his ordinance,

\* The reader who is desirous of seeing this attorney-general's doctrine more at large, may consult a late publication entitled, *Droit le Roi*; a copy of which was burnt by the hands of the hangman, Ann. 1764.



by his proclamations, by his patents, by his writs, and, in legal matters, by his judges. That this may be done by him, it is agreeable to reason; for Kings were before parliaments; and then surely they might have done it. As justice doth flow from the crown originally, as it was in Moses, so it is in the King of England, only in the King's person. But afterwards, the King did depute his deputies, and gave other powers. There was a time, when there were no municipal laws, when positive laws were not established, when Kings did rule their people according to natural equity; since there have been positive laws, and municipal laws, the Kings of England they have ordained, as by those several records cited appears. The King and his lords may make an ordinance which shall be as binding as a statute. There is no clause, nor any particular in the writ 4 Aug. 11 Car. but is warranted upon many precedents, and in this thing the King doth but *jubere per legem*. For the direction it is, as in this writ, sometimes upon one, as *probis hominibus* of such a county; sometimes the direction is to commissioners, sometimes one way, sometimes another; and of this, of the precedents themselves, when your lordships come to see them, I shall speak. They would have the King descend so low as to give them a reason why he doth it; some reasons are expressed in the writ, as *quia periculum imminuens, quia pro defensione regni, tuitione maris, securitate subditorum, salva conductione navium, &c.* My lords, all these are expressed in the records 9 Ed. III. M. 12. sect. 10. Ed. III. M. 20. R. Alm. 12. Ed. III. M. 1. R. Alm. 13 Ed. III. M. 13. I find in these writs the same matter, power of assessments, sometimes levies by distress, and imprisonment; nay, seizure of lands and tenements, goods and chattels, and that it was at the charges of the counties, both inland and maritime; this appeareth R. sect. 8 Ed. II. M. 9. *De navigio providend.* Pat. 9 Ed. II. M. 26. Pars 2. *De navigio providendo pro custodia maris.* They say this power of assessing the people for sums uncertain ought to be no more than escuage uncertain, and must be assessed in parliament, a service which is to be done by the tenant to his lord. What if this be so that it must be assessed in parliament? your lordships know, that the tenants must do according to the original duties of them; and

and if this be, that the lord shall not assess them but in parliament, is that an argument from a tenant to a lord in this case? This is service commanded not by tenure, but a King from his subjects: This is suitable to the reason of law in other cases; for those ancient aids which the law doth require for the making his eldest son a knight, or *pour fille marrier*; are not those certain at the common law? Must there be an act of parliament to assess those aids? the books are otherwise. But they say the sheriff is no proper officer, nor sworn to execute this writ; this is as wide as the other: For, my lords, the sheriffs are sworn to execute all writs which shall be delivered to them for the King's service. For the manner of levying *per districtiones*, and by imprisonment of those who do refuse; is this new? It hath been so in all the precedents which have been vouched, doth by distress and imprisonment. They except to the penalty of the writ. The penalty of former writs have gone higher, &c. Mr. Attorney, in his last day's argument, undertook to answer the several acts of parliament, records, and reasons, which had been urged on the other side; and to answer the exceptions which had been taken to the form of proceedings. The first act which was insisted on was that of William I. This he said, did no way trench upon the royal power: It was inherent in the Kings of England before the Conquest, and here was only a concession that they should be free *ab omni injusta exactione*. The next thing insisted on was the charter 17 Johan. This was an enforced act from a distressed King? Shall this bind the crown? For the statute of Magna Charta it was made 3 Hen. III. The general words of this act did no way impeach the royal power; for the royal power was *lex terræ*: for the statute *De tallagio non concedendo*, it took away no aids which were due by the law of the realm: Yet the words were general, without an exemption, as of aid for to knight the King's son, or to marry his daughter; yet the law was observed; these aids were not taken away; and so it was declared in the 25 Ed. I. cap. 11. which reduced these aids to a certainty. The next statute objected was Ed. III. cap. 5. the words are these: "That no man shall be charged to arm himself otherwise than in the time of the King's progenitors, but where necessity requires, and the sudden coming of strange  
I i 2 enemies



enemies within the realm." So this statute is relative to what had been formerly done. What hath been formerly done, appeareth by the records in the times of John and Ed. I.; that the subjects were to set forth shipping at their own charge, and then this statute alloweth in two cases, one where necessity requireth, the other upon coming of strange enemies: and this writ requireth no other than where there is a necessity in the King's judgment. The next statute is 1 Ed. III. cap. 7. where men at arms were conveyed into Scotland and Gascoigne without wages; the King saith it shall be so no more. The statute mentioneth Scotland and Gascoigne, foreign wars. The next statute was, the 18 Ed. III. cap. 7. men of arms, hobellers, and archers, shall be at the King's service; the statute speaketh likewise of going out of England: But he who is upon the defence of the sea, it is no going out of England. The next statute was 25 Ed. III. cap. 8. no man shall be compelled to find men of arms, hobellers, and archers, otherwise than those who hold of such service, without consent: This statute of 25 Ed. III. doth not take away former laws; these three statutes of 1 Ed. III. 18 Ed. III. and 25 Ed. III. are recited in the statute 4 Hen. IV. and it is enacted, they shall be firmly holden, and kept in all points; so, if these statutes must be kept firmly in all points, then the statute 25 Ed. III. doth not repeal any of these. They have objected, continued Mr. Attorney, the counsel of the sages of the realm in the time of Ric. II. This is no act of parliament, but a communication between the Lords and Commons in the nonage of a young prince, who did not assent. The next statute objected was 9 Ric. II. a tenth and a half, and a fifteenth, granted to the King, on condition that the great officers of the kingdom should be named in parliament, and servants appointed for dispense of the monies. If the King doth accept of subsidies and aids upon condition, does this take away his royal power? There is no more done in this than was in the parliament 21 Jac. for there the officers and treasurer were appointed by the houses of parliament. Farther, it appeareth this was granted *pro viaggio Johannis regis de Castile*, and not for the custody of the sea. The next record insisted on was, a tenth and a half, and a fifteenth and a half,

granted with a protestation that it should not be brought into example ; this is nothing, no more than the other ; a protestation can no way prejudice the crown in this. The King's speech 7 Ed. IV. is objected. My lords, this is nothing but a gracious speech of the King to his subjects, that he would charge them but in such cases as should concern the defence of the realm. The statute next objected was 1 Ric. III. This is no benevolence, but a legal due. Next they object to the statutes of tonnage and poundage granted to the crown for the defence of the realm. In answer to this I say, that there is no act for tonnage and poundage which is now in force ; neither are any duties taken to the crown upon act of parliament ; those acts for tonnage and poundage which have been granted make for the crown. If your lordships look into the statutes 1 Eliz. and 1 Jac. it was given towards the King's charges, not intended of extraordinary defence. In the next place, they insisted on the Petition of Right, 3 Car. It was never intended that any power of the King, by his prerogative, should be taken away or lessened by it. I dare be bold to affirm, for I was of that parliament, and was present at the debate, that there was never a word spoken in the debate of taking away any power of the King for the shipping business ; besides, it is declared, assented to, and denied by none, that there was no intention by the Petition of Right to take away the prerogative of the King : The King thereby did grant no new thing, but did only confirm the antient and old liberties of the subject. For an answer to scandalous objections, it hath been said, by Mr. Holburn, of these statutes of the 25 Ed. I. and 28 Ed. I. that at the time of making these laws they were positive ; no such salvo was in them of the King's prerogative ; that the acts before Hen. IV. were penned by the King's council, and those clauses of a salvo crept in by the King's council : These were bold and presumptuous assertions of the acts of parliament made in the time of Ed. I. that there should be any clauses added by the King's council which should not be added in the record. Mr. Attorney, having proceeded to make frivolous objections to all which had been quoted in favor of the subject, concluded with this piece of sophistry : "Your lordships have observed, said he, that in all my discourse I



have not insisted any way upon any power of imposition, neither is it the question in this business; for no man's property is invaded; no seizure of any man's goods, unless they incur it by contempt, and by a wilful contempt the subject may lose his property. For the sentence of Dr. Manwaring, it is nothing to this purpose: this writ denieth not the property to be in the subject, but saith the subject hath the property, and therefore commandeth the sheriff to distrain him if he will not pay. They have objected Dr. Cowell's book, which was called in: I wish they had read the proclamation; there are three causes expressed: First, because he had written things derogatory to the crown: Secondly, for———and thirdly, speaking irreverently of the common law: Just like to the men who do not spare to wade into all the deep mysteries of princes, who are gods upon earth. For their objection that the King hath a revenue belonging to the crown, for the defraying all ordinary and extraordinary charges, and for the guards of the sea, as tenures, &c. my lords, it is not for us who are lawyers to look into the secrets of the King's revenue: The story of Acteon might deter men from looking into the secrets of princes. They say there was no sufficient danger expressed in the writ 4 Aug. 11 Car. they say a supply by the mittimus comes too late, and that the words of the mittimus are not a good affirmative. For this, I have given it an answer, that it was not necessary to represent the danger in the writ: but, my lords, for the satisfaction of his people, the King expressed sufficient cause in the writ, *quia salus regni periclitabatur*. They say, that there was no danger represented at this time when the writ was out. That is mistaken, for the writ of mittimus doth recite the writ 4 Aug. and that saith, *quod quidem prædones, piratæ, &c.* which shews that danger was the cause of the issuing these writs. They except at this word *salus*; it is a physical word, and signifieth health, and you must have no metaphors in writs. Surely the grammarians tell us, that *salus* is taken *pro incolumitate*, as well for safety as for health. Metaphors are usual in writs. I dare be bold to speak, there are more metaphors in the register than in any book. Then they have left no stone unrolled in this case; now they say the King's testimony in his writ is insufficient: Under

favor, the *teste meipso* is without exception ; we are bound to give credit to it. The next exception was taken to the *scire facias*, that this *scire facias* ought not to go forth for the debt; and two reasons were given for it, first, the writ 4 Aug. doth direct a form of levying, which is by distress, or imprisoning those who are rebels; secondly, it is no debt to the King, and therefore ought not to be levied by the *scire facias*. My lords, for this, this duty is due to the commonwealth ; it is *pro defensione regni, thesaurus publicus respicit regem* ; whosoever shall detain any public duty, he may be questioned by the King as the head of the body politic ; this *scire facias* is grounded upon the whole matter, the writ 4 Aug. the *certiorari*, and mittimus, and commandeth that the defendants shall shew cause why they should not pay the money assessed upon them by the county."

After the pleadings of the lawyers, the judges proceeded to give their opinions, which each introduced by a speech, in which they argued the case. Mr. Baron Weston began : He observed that Mr. Holbourn's exception to the words in the mittimus, that it did not make good the defect of the writ, was frivolous, for the demurring to all had confessed all ; whereas it had been objected, that if this power of raising money were admitted, it would keep back parliaments. If this power be in the King, and it be just and equal, then it is not to be taken from him, because he may misemploy his power ; if he misuse his power, the fault is his ; this objection cannot be made unless you suppose injustice in the King : Make what laws you will, if the King be unruly he will break them. For my part, I am satisfied there is an apparent danger, and that there is a necessity this danger should be prevented.

Mr. Justice Crawley charged the plaintiffs with talking impertinently of tonnage and poundage, when there was no such grant on record ; of ship-money having been charged for three years together, of great sums of money imposed upon merchandize : then you talk, continued he, of the subjects losing their property ; but this rather to abuse the people without either color or shadow. If you at the bar had not spoke it *argumenti gratia*, it could not but have proceeded out of the depth of malice, or ignorance, or both. If one be found guilty of murder, and



the judge knoweth the contrary, what shall be done? He ought to acquaint the King therewith, for it is the King's right of sovereignty to pardon, but the judge hath no such power. I say the whole case appertaineth to the King only, and he is the sole judge both of the defence of sea and land. Among the royal prerogatives, Mr. Justice Crawley reckoned the power to impose taxes without consent of parliament; and said, that the King as *pater patriæ* was, by the law of nature, entrusted with the defence of the kingdom; and this power to tax his people was but a consequence of that: Albeit subsidies be a gift and grant, yet this is in right and reason; if the son give to the father when he wants, it is his duty. You have alleged precedents both before the Conquest and since: That of the Dane-Gelt, though it was a heavy yoke, yet it was necessary to be borne; whether it was granted by parliament or no, *non constat*; I say it is a good precedent, and I hold it good without parliament. Some distressed Kings, as king John, Hen. II. and Ric. II. they did indeed do that by borrowing which they might have took of right. Now to give an answer to the statutes of 25 Ed. I. and 14 Ed. III. and the Petition of Right 3 Car. admit, I say, there were an express act that the King, were the realm in ever so much danger, should not have aid from his subjects but in parliament, it is a void act. Will any man say such an act will bind; this power is as inseparable from the crown, as the pronouncing war and peace is: In some cases it is necessary to leave the words of the law, and to follow that which reason and justice requireth, and to that intent equity is ordained. This imposition without parliament appertains to the King originally, and to the successor *ipso facto*, if he be a sovereign in right of his sovereignty from the crown. You cannot have a king without these royal rights; no, not by act of parliament. Again, these acts bind not, for that a favorable construction, in case of the King, is to be had in all cases. You say this tax hath continued for three years; put the case the danger continueth for three years, and then the King ceaseth to lay a charge, and the danger begins again the next year; what, shall not the King require aid as the danger increaseth? And now to conclude without repetition, it doth appear by this record, that the whole kingdom is in danger both by sea and land, of ruin  
and

and destruction, dishonor and oppression ; and that danger is present, imminent, and instant ; and greater than the King can, without the aids of subjects, well resist : Whether must the King resort to parliament ? No, we see the danger is instant, and admits of no delay. Shall we go home and sit together in careless security ? Not so ; but let us resort to our pious and just King, whose prerogative and right of sovereignty is to defend the realm, and to maintain his subjects' liberties. And so I give judgment for the King.

Mr. Justice Berkley's exordium was, that the people of the kingdom were subjects not slaves, freemen not villains, to be taxed *de alto & basso* : Though the King of England had a monarchical power, and had *jura summæ majestatis*, and had an absolute trust settled in his crown and person, for the government of his subjects ; yet his government was to be *secundum leges regni*. The subject had in their goods a property, a peculiar interest, a *meum & tuum*. They had a birthright in the laws of the kingdom ; no new laws could be put upon them ; none of their laws could be altered or abrogated without their consent in parliament. Thus much I speak, said Mr. Justice, to avoid misapprehensions and misreports upon that which I shall say in this case ; not as if there were cause of saying so much upon any thing challenged on the King's side. We have in print his majesty's most gracious declaration, that it is his maxim, that the peoples' liberties strengthen the King's prerogative ; and that the King's prerogative is to defend the peoples' liberties. It is plain that as originally, even before the Romans' time, the frame of this kingdom was a monarchical state, so for divers hundreds of years past, upon the Romans' desertion of it, and after the Heptarchy ended, it was, and continued, and still continueth, monarchical : And our gracious sovereign is a monarch, and the rights of free monarchy appertain unto him ; and yet still with this, that he must *leges*, &c. Where Mr. Holburn supposed a fundamental policy in the creation of the frame of this kingdom, that in case the monarch of England should be inclined to exact from his subjects at his pleasure, he should be restrained, for that he could have nothing from them but upon a common consent in parliament ; he is  
utterly



utterly mistaken therein ; the law knows no such king-yoaking policy. I never heard nor read that *rex* was *rex* ; but it is common and most true, that *rex* is *lex* : for he is *lex loquens*, a living, a speaking, an acting law. There are two maxims of the law of England which plainly disprove Mr. Holbourn's supposed policy ; the first is, that the King is entrusted with the state of the commonwealth ; the second is, that the King cannot do wrong : Upon these two maxims, the *jura summæ majestatis* are grounded, with which none but the King himself, not his high court of parliament, without leave, hath to meddle, as namely, war and peace, value of coin, parliament at pleasure, power to dispense with penal laws, and divers others ; among which I range this also of regal power, to command provision in case of necessity ; otherwise I do not understand how the King's majesty may be said to have the majestical right and power of a free monarch. It is the King's right to have supply : Supply is not merely a benevolence from the people. The same law which wills the King to defend his people, wills also, that the people grant to him of their goods in aid of their defence. Give me leave to say, that the parliament is but a *concilium* : the King may call it, prorogue and dissolve it at his pleasure ; and whatsoever the King doth therein, is always to be taken for just and necessary. In granting the Petition of Right, his majesty, who knows his own heart and sincere meaning best, in his second speeches to both houses, saith, that it most needs be conceived that he had granted no new, but only confirmed antient privileges. Had there been any express clause in those statutes which I have before cited, that no charge should be imposed without common consent, no, not for necessary defence of the kingdom, I certainly believe, that neither king Ed. I. nor king Ed. III. nor our sovereign, would ever have yielded to so dishonorable and unjust an expression. Necessity and the *salus reipublicæ* are, by a reasonable intendment, clearly out of the statute *De tallagio non concedendo* and the Petition of Right, as if the same had been precisely excepted ; a literal exposition will make laws for the good of the commonwealth prove the bane and ruin of it. It hath been said, that in the present case, the King hath not proceeded *per justiciarios*, but *per se*, or in *camera*.

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I answer, that in our case, there is not any thing done in *camera*; the shipping-writ issueth out of the court of Chancery: Besides, we are not now in the case of assessing a fine; if we go to distinction, there is *potentia absoluta*, and *potestas ordinaria*: I hope none will deny but that the King hath *potestatem absolutam* in many cases. A man may be committed *per speciale præceptum domini regis*, and is not in that caseailable. The King is *capitalis justiciarius Angliæ*; I put you the case of Hill, 2 Ed. III. p. 6. One having money of the King's wherewith to pay soldiers, misused it, and committed many outrages in Lancashire; a writ issued to the sheriff of Lancaster to attach him. Being by virtue thereof attached, and brought to the King's Bench, he was there discharged; the reason given by Scroop the chief-justice was, because the attachment, being grounded upon a suggestion, was against the law; no such writ ought to have issued, unless there had been some indictment, presentment, or information depending. But I doubt not, if the King had by his absolute power made a special precept in his chamber for commitment of this man, he could not have been discharged. It has been objected, that ship-money is to become an annual charge upon the people; there is cause of thinking so, because, since 11 Car. we have had every year new shipping-writs. If the necessity continues, the charge must continue: The same reason serves for the continuance as was for the beginning of it. Yet I deny that of itself it may be annual; this must be left to his majesty's justice, which God forbid that any should think he will abuse. Cases of necessity, cases of *bonum publicum*, and cases of *salus reipublicæ*, are not comprised within ordinary rules.

Mr. Justice Vernon. The King, for the safety and defence of the kingdom, may charge his subjects, notwithstanding any act of parliament; moreover, a statute derogatory from the prerogative doth not bind the King; the King may dispense with any law in cases of necessity.

Mr. Baron Trevor ran up the antiquity of the monarchy five hundred years before the birth of Christ, and confirmed it by a letter from the pope to king Lucius; and added, "Our King hath as much power and prerogative belonging to him, as any prince in Christendom hath. It



is proper for Kings to command, and subjects to obey. We who are the judges of the kingdom have paid this tax, therefore it is fit our opinions concur with our actions in this case."

Sir George Crook, justice of the King's Bench, argued next. He dissented from the rest of his brethren, and said, he held the writ not good at common law; admit it was good at common law, yet it was against divers statutes; that no pretence of danger could warrant it. That there was no prerogative in the crown or power royal for it. That it was the first writ devised of the kind, and the first put in practice either in inland counties or maritime parts; and that there was not any one precedent nor any one record judicial, or judgment in point of law for it; that the commands of it were against the common and statute law; that the assessments of the writ were not warrantable by the law: If no good writ, the *scire facias* would not lie, and the *certiorari* did not well issue as the case was. That the King could not impose any kind of tax upon his subjects. These Mr. Justice Crook proved by rules of law, resolutions of parliament, statutes, and the custom of the kingdom since the confirmation of those statutes. By the old law of Alfred, he said, parliaments were to be holden once a-year, and by express statute made 4. Ed. III. 14. a parliament was to be holden every year, if need require it; and by another statute for avoiding grievances, a parliament was to be holden every year. The imagination of man cannot invent a danger, but course may be taken for defence, till a parliament be had. So for my part, added Sir George Crook, I hold this point of necessity cannot be held a sufficient ground for this writ: The King can do no wrong, 2. Ed. III. A patent is made, which is a wrong to the subject, the King *de jure regis* ought to revoke that patent; a King to have a royal power or prerogative to do that by his writs which is against the express laws of his kingdom, is not admitted by the law; the royal power is to be taken away, for as it is before said by Fortescue, he can change no law, nor charge his people but by common consent in parliament. Precedents make no right; but if that is admitted, there is not one precedent of writs going all over England before now. Clauses have been in former writs, in cases of array, to distrain if they refuse to pay; but never in case of levying money

money to imprifon. It is clearly againſt Magna Charta to be imprifoned, unleſs indicted by due proceſs of law. It is not according to law, to command a ſhip of war, of four hundred and fifty tons, and then to turn it into money. For if a ſhip were made by a county, the county ſhould have it again; but in this caſe, the *ſcire facias* is brought to have the money: For the *certiorari*, it is directed to the ſheriff out of office, and ought not ſo to be; all writs are directed to the preſent ſheriff; admit the *ſcire facias* ſhould go forth, it would do ſomething, *onerari*, &c. To whom or how? nothing here; but *ſcire facias quare onerari non debet*; but to whom *onerari* it doth not appear. If the ſheriff levy the money, and do not beſtow it on a ſhip, he is accountable. It doth not appear that this ſhip was built, there is no preparation for a ſhip, the ſum aſſeſſed is not legal, the writ is not legal, becauſe it varieth from all former precedents. It varieth in the time, in the manner, for ſoldiers wages to inland counties, which was never before.

A more labored argument of this judge, on this caſe, was afterwards preſented to the King: He confutes all the fallacies and falſe aſſertions of the crown lawyers. "It hath been objected, ſaid he, that by the demurrer, the danger of the kingdom is confeſſed, and ſo it is to be allowed for a caſe of neceſſity. To this I anſwer, that the demurrer confeſſeth not matters, but where the matter is legally ſet down; but if it be not a legal proceeding, then the demurrer is no confeſſing the matter of fact. Where, by breach of ſea-walls, any inundation is in the country, the King ſendeth out commiſſioners to cauſe all who have lands or commons to be contributory to the making up the ſea-walls; this is done by enquiry of a jury; and this charge cannot be laid on a county or town in general, but upon particular men who have loſs or benefit, or may have loſs or benefit thereby; ſo it is at this day upon commiſſions of ſewers, as appeareth by Coke. It hath been ſaid, that tonnage and poundage is not now granted to the King, and therefore the King is enforced to theſe extraordinary courſes; though it be not granted, yet I think it is taken, and I doubt not but to the ſame intent for which it was firſt granted, the defence of the kingdom, and guard of the ſeas. It is objected, that  
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perhaps the parliament would not have consented, and so the kingdom might have been lost. It is not to be presumed, that the parliament would deny to do that which is fit for the safety and defence of the kingdom, their own estates and lives being in danger : But I confess, I think if it had been moved in parliament, they would never have consented to these writs, such never having been awarded before since the Conquest ; and if they had consented, they would have taken a course how the same should have been made with the most conveniency, and not to have left it to the sheriff to tax them how he would. To the objection, that a statute to inhibit such a defence were void, I answer, that if a statute were that the King should not defend the kingdom, it were void : But a statute that men should not be charged without common consent of parliament, is a good law, and agreeable to reason. I conceive, if the common law were doubtful whether such a charge might be imposed by writ, yet now it is made clear by divers express statutes. Mr. Solicitor labored much to prove, that there was no such statute *De tallagio non concedendo*. To this I answer, it was never doubted to be a statute until this argument ; and that it is a statute appeareth, first, for that it is printed in the book of statutes for a statute : Secondly, it is recited in the Petition of Right to be a statute. To that it is not found in the rolls, I answer, that many statutes, which are known statutes, are not found in the rolls, as Magna Charta is not ; and that it is a statute all my brothers have agreed. The only doubt then is, Whether this statute extendeth to aid for defence of the kingdom ? I think it doth ; for it is the precise words of it, That no tallage or aid shall be imposed but by grants in parliament. By this law, saith Bodinus, the subjects of England have defended themselves ever since, as with a buckler : whereby it appeareth, that this was held to be a statute in force in foreign parts." Sir George Crook answered every frivolous objection which had been made to the other statutes, and to their efficacy, and concluded with the Petition of Right, which he asserted was done by the advice of the judges, and was full in this point, " That the subject should not be charged without their consent." He concluded with observing, that the ques-  
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tion was not what had been done *de facto*, but what might be done *de jure*. Multitudes of precedents, unless confirmed by judicial proceedings in courts of record, were not to be regarded, and none of these were ever confirmed by judicial record, but complained of. To give a more clear answer to them, he had read all the records which had been sent him on the King's part, and having taken notes of every one of them, and diligently considered them, he conceived there was not any precedent or record of any such writ sent to any sheriff of any inland county, to command the making ships at the charge of the county : That this is the first precedent, since the Conquest, produced of this kind.

Mr. Justice Jones argued in the following style : “ When danger is imminent, the charge must be borne by all ; it must not be every kind of fear or rumor which must draw a burthen on the subject, but such a danger as the King, in his understanding, perceiveth doth require a speedy defence. This power of the King of which I argue, is a special prerogative in point of government.”

Mr. Justice Hutton argued, that the power of assessing money could not by law be imposed upon the people, without mutual consent in parliament : He answered the reasons, precedents, and objections, of those who argued on the other side ; observed that parliaments ought to be frequent ; and concluded with animadverting on the illegal powers which the writ had given to the sheriff.

Sir John Denham being confined with illness, sent a certificate that he gave his opinion for Mr. Hamden.

Lord-chief-baron Davenport argued, that aids granted by parliament were not merely voluntary, but duties : The imperial power of commanding aids, in case of necessity, belonged to the crown. The King, in expectancy of danger, may charge his subjects. If an act of parliament should restrain such a charge, in case of necessity, it would be *felo de se*, and so void ; for it would destroy the *jus regale*. He dissented from the majority of his brethren in the point of giving the power of taxation to the sheriff, and proved that the antient and usual manner of taxes and assesses, by the custom of England, was not at the voluntary pleasure of the great officer of the county ; but a jury was chosen to assess the county, and power was given



given to two others out of every town to assess the assessor : He objected next to the manner of proceeding against Mr. Hamden , that the *certiorari* should not have issued so long after the first writ ; it should have been returned whilst it was in force, and referred by another court, and the party presented by a jury upon default, and the King have remedy upon presentation and indictment ; that judgment could not be given for the King upon the *scire facias* ; for in the writ it was expressly provided, that the money should be employed to no other use but the preparation of the ship therein mentioned. It did not now appear who were collectors therein appointed to receive the money, whereby it became chargeable to the King ; it did not appear upon the record, that any ship was provided, or that any fault was in them who were employed, or of surplussage in the collectors hands ; it was not so legally executed, as the King might have a writ of *scire facias*. The *scire facias* was, that Mr. Hamden should shew cause why he should not satisfy the sum imposed upon him ; but whom he should satisfy, or to whom the money should be paid, *non constat*, as was well opened upon the demurrer : For it is not, *si dominus Rex valet aut debeat onerare* the defendant, but that the defendant *onere-tur*, & *inde satisfac.* : Nothing is put into the record to bring money to the King ; therefore *quod oneretur* could not be executed at all. Lastly, that the mittimus was only the tenor of the record, and not the record itself ; in such a case a *scire facias* could not issue, for it was but the extract of the record : The mandates in the writ 4 Aug. were not good in law, nor well grounded upon the certificate ; the information afterwards in the mittimus could not make a formal writ good, which was first defective, and the return of the sheriffs was not effectual : For these reasons judgment was to be given for Mr. Hamden.

Sir John Finch began with large professions of a perfect integrity, which he introduced with the following cant : “ I hope none of us forget the duty we owe to God and the King and commonwealth, and to ourselves : I shall endeavor to satisfy my conscience in all which I shall say ; and they forget their duty to the first, and humanity towards us, who say or think the contrary of any one of us. It cannot be presumed but that we should speak our consciences,

sciences, since we well know, shortly, as the Psalmist says, "Corruption shall say, I am thy father, and the worm, I am thy mother." On entering into the cause, he blamed Mr. Hamden for bringing the case to judgment, and complained that *arcana imperii*, nay *imperium ipsum*, had been too licentiously treated at the bar; he argued, that the King had a property in every subject's goods, for the common good in times of necessity; none could share with the King in his absolute power; the King was not bound to call parliaments, nor to continue them, but at his pleasure; the parliament was an honorable court, he confessed it; an excellent means of charging the subjects, and defending the kingdom, he owned it; but it was not the only means: The best way to redeem those lost privileges was to give all opportune appearance of obedience and dutifulness to his majesty's commands. There was a King before a parliament; for how else could there be an assembly of King, Lords, and Commons? And then what sovereignty was there in the kingdom but his? The law which gave the King the sovereignty of defending, gave him also power to charge his subjects for the necessary defence of the kingdom; private property must give way to the public; this King will charge his subjects, but only upon urgent necessity; an act of parliament cannot bar a King of his regality, nor bind him not to command his subjects goods or money. Sir John Finch farther asserted, that Dane-Gelt, or something in lieu of it, remained still, for it was not taken away by any act of parliament; and that the precedents which had been cited on the King's side proved that the power was in him to charge his subjects; and that the precedent of 2 Rich. II. was no good precedent, seeing the King was young, and the parliament had the regency. That what the King had taken he had spent upon the public occasions; he had it from his own royal mouth: But let Kings be as David was, men after God's own heart, they would not want a Shimei to rail at them. But no abuse of any thing must take away the true and lawful use thereof; but it could not be suspected there would be an abuse; *Ubi confidit Deus & lex, & nos etiam confidimus*. It had been objected, that the writ was illegal, because contrary to Magna Charta, *Nullus liber homo imprisonetur*.



There was no imprisonment in question, but the assessment only ; why he should not pay the money assessed, or shew cause to the contrary ? Sir John Finch farther asserted, that the manner of assessment by the sheriff was legal and proper ; and that the writ of *scire facias* was good, and all the proceedings in the case were well grounded, and according to law.

Sir John Brampston, lord-chief-justice of the King's Bench, argued with the majority of his brethren. There is a necessity to prevent a necessity ; the aid commanded in this case is not against the great laws concerning the subjects' liberty, because it is no tallage, but a service. He inclined to the opinion of the lord-chief-baron in his exception to the record *quod oneretur*, and not know to whom it should be. His opinion in all other points agreed with the general vote of the court. *State Trials*, vol. I. p. 493, & *seq.*

END of the SECOND VOLUME.























